PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BURTON:

H.R. 5475. A bill for the relief of Brigida F. Geturbos; to the Committee on the Judiciary.

H.R. 5476. A bill for the relief of Esperanza C. Yauder; to the Committee on the Judiciary.

H.R. 5477. A bill for the relief of Josephine Gonzalo (nee Charito Fernandez Bautista); to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

59. By the SPEAKER: Petition of the Congress of Micronesia, Trust Territory of the Pacific Islands, relative to the High Commissioner of the Trust Territory of the Pacific Islands; to the Committee on Interior and Insular Affairs.

60. Also, petition of the Oklahoma Society, Sons of the American Revolution, relative to the powers of the Federal judiciary; to the Committee on the Judiciary.

SENATE—*Monday, March 12, 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:

O Divine Ruler, deliver us from the stress and strain of duty, from the tumult of our days, from the confusion of many voices that in this holy silence we may hear once more Thy still small voice. Hearing Thy voice, may we find healing and peace. Hearing Thee, may we discover Thy will in the processes of history and in life itself.

Grant us the statesmanship to see beyond the transient skirmish, the interim debate, and the trivial contention, to the future order of justice and truth toward which we strive. Lead us safely through the days by the light of Thy truth into that higher kingdom on earth, the law of which is love whose builder and maker is God.

Through Him who is King of Kings and Lord of Lords. Amen.

EXECUTIVE REPORTS OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of March 8, 1973, the following favorable reports of nominations were submitted on March 9, 1973:

By Mr. CANNON, from the Committee on Commerce:

Alexander P. Butterfield, of California, to be Administrator of the Federal Aviation Administration;

Dennis Pepe, for permanent appointment to the grade of lieutenant in the National Oceanic and Atmospheric Administration; and

Kent P. Dolan, for permanent appointment to the grade of lieutenant (junior grade) in the National Oceanic and Atmospheric Administration.

The above nominations were reported, with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JOURNAL

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

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

MESSAGES FROM THE PRESIDENT

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

ANNUAL REPORT OF THE NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare. The message is as follows:

To the Congress of the United States:

I am pleased to transmit to the Congress the Twenty-Second Annual Report of the National Science Foundation, covering the fiscal year 1972.

During the period covered by this report, the Foundation continued to make an important contribution to the strengthening of our economy and our society through science. It increased its support for scientific research in all disciplines and further expanded its involvement in research focused on domestic problems.

The report should be of special interest to the Congress at this time, in view of the additional responsibilities that would be transferred to the Director of the National Science Foundation from the Office of Science and Technology by Reorganization Plan No. 1 of 1973, which I proposed last month. I believe that this account of the Foundation's outstanding work during 1972 helps to confirm its fitness to undertake a broader role in the national science effort in 1973.

RICHARD NIXON.

THE WHITE HOUSE, *March 12, 1973.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 7) to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

WAIVER OF THE CALL OF THE CALENDAR

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

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

VIETNAM VETERANS

Mr. MANSFIELD. Mr. President, I hold in my hand an editorial published in the Christian Science Monitor under date of Friday, March 9, 1973, entitled "'Forgotten' Vietnam Veterans."

I read in part:

But the rights or wrongs of the war do not affect the debt due those who fought in a remote land while the home front, for all the war's drag on domestic progress, suffered singularly little inconvenience. A general is retired on generous pension though relieved of his command and demoted amid charges of unauthorized bombing and falsified records. Surely men who inconspicuously did their jobs without taint deserve fair consideration of their needs.

Mr. President, further on—and this is the result of public hearings which have been held throughout the country by our distinguished colleague in the House, SILVIO CONTE—the editorial states:

"They feel they're forgotten," he said. "They don't know whether they're heroes or bums."

Mr. President, I ask unanimous consent to have this editorial printed in the RECORD.

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

FORGOTTEN VIETNAM VETERANS

You swung off the bus and everybody smiled as your family hugged you. You went back to the job that had been held while you were away, or you went off to the university that was glad to see you with your full tuition money in hand. The older folks admired you, and most of your generation seemed to have been through the same thing. You had done a job that had to be done, and your country showed its gratitude in a thousand tangible and intangible ways.

Or so it was for a veteran returning from World War II.

A heartbreaking contrast has been developing for the veterans of the Vietnam war, a war no less grim and dislocating for being undeclared. Yes, the President and the media go all out for the returning POWs, and their special ordeal cannot be minimized. But thousands of their unsung fellows, often grievously injured, have returned to a bleaker welcome.

They face indifference from their elders, doubt from members of their own generation. They were doing a duty that not everyone agreed should be done. Now even one of the returning POWs has reportedly broken the POWs' general impression of conviction in their cause by saying, "Many of us came to believe that possibly we had inserted our noses into somebody else's business."

But the rights or wrongs of the war do not affect the debt due those who fought in a remote land while the home front, for all the war's drag on domestic progress, suffered singularly little inconvenience. A general is retired on generous pension though relieved of his command and demoted amid charges of unauthorized bombing and falsified records. Surely men who inconspicuously did their jobs without taint deserve fair consideration of their needs.

Fortunately a swell of opinion seems to be building in their favor. In the murky area of what seem to be some disability cutbacks combined with some disability gains, the Veterans' Administration has wisely withdrawn for "further intensive study" a measure that drew congressional protest. Steps to help the "forgotten warriors" were reported recently in this newspaper. Rep. Silvio Conte is holding public hearings around the country to listen to what the veterans themselves have to say.

"They feel they're forgotten," he said. "They don't know whether they're heroes or bums."

Meanwhile, the VA says veterans' problems are being exaggerated in regard to drugs, jobs, and hospital care. It is something for a nation's conscience to decide.

EXECUTIVE SESSION

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

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

The PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

DEPARTMENT OF AGRICULTURE

The second assistant legislative clerk read the nomination of Robert W. Long, of California, to be an Assistant Secretary of Agriculture.

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

FEDERAL AVIATION ADMINISTRATION

The second assistant legislative clerk read the nomination of Alexander P. Butterfield, of California, to be Administrator of the Federal Aviation Administration.

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

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The second assistant legislative clerk proceeded to read sundry nominations in the National Oceanic and Atmospheric Administration.

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

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

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

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.

THE URBAN CRISIS

Mr. MANSFIELD. Mr. President, over the week end, at the request of the majority leadership in Congress, Senator ABRAHAM RIBICOFF responded in a radio address to President Nixon's recent message on the urban crisis.

Senator RIBICOFF, as a former Secretary of Health, Education, and Welfare, is one of our most knowledgeable advocates of Federal aid for our cities, both large and small. He laid out in his address the pitfalls of the "new federalism" as proposed by this administration and pointed out what Congress has done and still hopes to do to make our Nation's cities a fit place to live in a democratic society.

I ask unanimous consent that this address of Senator RIBICOFF's be printed in the RECORD.

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

ADDRESS OF SENATOR RIBICOFF

Following is the text of Senator Ribicoff's radio network speech at 12:06 PM Saturday, March 10:

President Nixon declared in a nationwide radio broadcast last Sunday that the crisis in our cities is over. He wants to cut or end federal aid to the cities.

Congressional democrats asked me to discuss this matter with you. The national radio networks have made this time available.

All of us desire the crisis in our cities to end. We want people to walk the streets of their cities safely and without fear of harm. We need good housing at reasonable prices. We need fast and comfortable transportation. We need clean air and water.

The crisis in the cities isn't over. Anyone who lives or works in or visits the cities knows the crisis is still with us.

The reality of daily life in our nation's cities is harsh. Illegal drugs are a major problem. They strike fear into the hearts of parents concerned about the future of their children.

Walking city streets at night is no longer a pleasure. It's a danger.

Downtown areas have blocks of decaying and abandoned housing. These breed filth and disease—and more crime.

People move to the suburbs when they can afford it.

But they're finding that the problems of our cities reach out to small towns and suburbs as well. Yet the President says the crisis is over.

If the crisis in our cities is over, why has serious crime gone up 30% in the past four years? Why is crime increasing even faster in the suburbs and small towns? And why did a recent Gallup Poll show that 41% of people across the nation are afraid to go for a walk at night?

If the crisis in our cities is over, why are schools on the verge of bankruptcy and collapse in Chicago, Detroit, Philadelphia, Portland, Oregon and elsewhere?

If the crisis in our cities is over, why has there been no bus service in many Connecticut cities for more than 100 days? Why do unreliable and uncomfortable commuter trains make riding into New York City a daily misery? And why do massive traffic jams plague every community every day?

If the crisis in our cities is over, why do almost 5 million homes lack proper plumbing? Why are another four and one-half million houses overcrowded?

Whether we want to admit it or not, there is trouble in our cities. Our problems won't go away by simply saying they are gone.

No one knows this better than the mayors and elected leaders of our cities. Fifteen hundred of them—Republicans and Democrats—met in Washington this week.

The Mayors know what our cities are like. They know the urban crisis is still very much a fact of life. Mayors of Connecticut cities met in my office this week to talk about the urban crisis they live with every day. They are dedicated people willing to exercise the responsibility of local leadership.

They agree with me that no federal program should be continued if it doesn't work. They support the President's theory that local leaders should be given the responsibility for running their cities.

But they vigorously object to the President's meat axe approach for ending urban programs. The Mayors say they can't save their cities without federal financial help.

The Mayors came before the Congress to plead their case. Here is what some of them are telling us:

Mayor Landrieu of New Orleans, Louisiana, says:

"The Administration in its budget has brought the center city to its knees with crippling cutbacks and reductions."

Mayor Uhlman of Seattle, Washington, says:

"For an aging blind man, the President's budget will mean no more new braille books . . . and back to loneliness and isolation.

"For a youngster who has dropped out of school, the President's budget will mean no

possibility of a job from Neighborhood Youth Corps . . . and back to the streets."

Mayor Gribbs of Detroit, Michigan, says:

"These cuts will give impetus to a new cycle of decay in American cities."

Mayor Maier of Milwaukee, Wisconsin, says:

"The final and inevitable result of these reductions in city programs through the freezing of funds and the deep slashes in the budget will be to transfer the burden on the back of the already over-burdened local property taxpayer."

Mayor Gibson of Newark, New Jersey, says:

"Marginal businesses will be forced to close—more homes will deteriorate and be abandoned, the supermarkets and clothing stores will sell fewer products, more jobs will be lost—more public assistance will be required—crime will more likely increase—and the entire fabric of social well-being will begin to crumble."

Mayor Alexander of Syracuse, New York, says:

"I submit that jobs for veterans, summer jobs for students, recreation programs and youth-oriented educational programs are essential tools in our community's effort to reduce crime and drug use among young people."

I think you get the point the Mayors are making. The cities they represent are in trouble. They can't make it alone. They worry that the federal government is about to abandon them and put the burden on the local property owner.

We should be attacking the problems of our cities, not the good programs designed to help them.

Let's begin with the problem of crime and drugs. We should be vigorously pursuing the masterminds behind the billion dollar drug racket. These are the men who plot the destruction of human lives.

At present there are at least 9 federal law enforcement programs in the drug field. They operate with little coordination. And they exclude the F.B.I. entirely.

It's time we put the nation's drug enforcement effort under the control of a single agency. My preference is the nation's number one law enforcement agency—the F.B.I.

We must help protect the homeowners of our cities against rising property taxes. Homeowners are the backbone of their communities. Many of them—especially the elderly—find rising taxes make it impossible for them to keep their family homes.

We must make a stronger effort to bring scientific solutions to city problems. The same modern technology that guides astronauts to the stars can help us control rush hour traffic.

The same production line that builds military tanks can build high speed trains.

Instead of having scientists and engineers receiving unemployment checks, we should put them to work developing new and cheaper ways to clean our air and water.

These are only a few suggestions. More needs to be done. None of it will be accomplished overnight. But that does not make it impossible.

I agree with the President that a limit must be imposed on federal spending. But within that limit, there's plenty of room for setting our priorities.

Unfortunately, the President refuses to discuss such questions. His budget is presented on a take-it-or-leave-it basis. Arguments about Executive and Congressional power fill our newspapers and radio and T.V. news shows.

It's an interesting debate. But the result is government by stalemate. And the losers are the American people.

It's time for the President and the Congress to work together to solve our basic problems. We won't accomplish much in Congress by claiming the President threatens the future of the republic. But the President won't improve life in this country by proclamations that our problems no longer exist.

We are all proud of our country and the progress we have made. But progress will continue when we look at life realistically.

Our elected officials must have the vision and courage to be statesmen capable of leadership. If we work together, we can move ahead. If we face facts, we can solve our problems. But we must face facts.

And the fact is that our cities are in crisis. They need help. They should help themselves. But some help from the federal government is essential or the cities will continue to decline. We don't want that to happen. And I am confident the President does not want that to happen.

It's time for all of us to stop making debating points—and start working together to assure a better country.

Thank you. Good day.

IMPROVEMENTS OF ADMINISTRATIVE PROCEDURES IN THE DEPARTMENTS AND AGENCIES

Mr. MANSFIELD. Mr. President, it is nearly 10 years since the late minority leader, Senator Dirksen, a beloved colleague, addressed the Senate on the need for improving the administrative procedures used by the departments and agencies of the Federal Government in carrying out their functions. At that time, he introduced a bill which had been the result of 4 years of work by the Subcommittee on Administrative Practice and Procedure of the Senate Committee on the Judiciary. That bill, which had the support of the chairman of that subcommittee, at that time, drew heavily on the recommendations of the American Bar Association and other bar associations.

The most recent issue of the Administrative Law Review has called attention to that speech of Senator Dirksen in an issue which is devoted entirely to proposals for amendments to update the 1946 Administrative Procedure Act. Senator Dirksen's analysis of the problem areas which need attention is reprinted in full in that issue of the Law Review and is still valid today.

Many of us in Congress have become increasingly dissatisfied with the manner in which the departments and agencies of the Federal Government administer their responsibilities. Excellent programs which have been adopted by the Congress have been frustrated or stymied by the use of inadequate administrative procedures. It is time that we turn our attention to improving these procedures on a governmentwide basis.

It is my hope that in the 10th year after Senator Dirksen's statement, we will be able to commence an inquiry into the problem areas which Senator Dirksen referred to in order to begin to resolve those problems and bring the administration of the laws passed by the Congress under more effective and modern procedures in the departments and agencies of the Federal Government.

I ask unanimous consent that Senator Dirksen's remarks made at that time and also the foreword of this issue of the Law Review by Cornelius B. Kennedy, a former staff aide of Senator Dirksen who helped prepare this bill, be printed in the RECORD. This insert presents the recommendations of the American Bar Association in this area as well as the history of efforts to update the Administrative Procedure Act. I urge the appropriate committees of the Senate to give consideration to these proposals because of their impact on the manner in which the laws passed by Congress are administered by the departments and agencies of the Federal Government.

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

[From the Administrative Law Review, vol. 24, No. 4]

(Excerpt from the CONGRESSIONAL RECORD*)

COMMENTS OF SENATOR DIRKSEN ON S. 1663—IMPROVING ADMINISTRATIVE PROCEDURES

Mr. President, for myself and the distinguished Senator from Missouri [Mr. Long], who is chairman of the Subcommittee on Administrative Practice and Procedure, on which I am the minority member, I introduce, for appropriate reference, a bill to amend the Administrative Procedure Act.

I am delighted to report that the drafting of this bill has been carried on jointly with the Subcommittee on Administrative Procedure of the House, under the chairmanship of that very wonderful man, the gentleman from Pennsylvania, Mr. Walter, who for more than 30 years has been a great and good friend of many of us who have served with him, and whose passing over the past weekend has been of such great sorrow to all of us. In the drafting of the bill we have had the help of the able counsel to that subcommittee, Mr. Joseph Hyman.

This is indeed an historic occasion, because after years of study and months of legislative drafting we are approaching a consensus, not only on what ought to be done, but also on how it must be done.

The bill deals with the manner in which the agencies of the Government go about their work. There is scarcely any facet of the life of anyone in this country which is not affected by one or another of the myriad of Federal agencies. The prices of things the public buys and the conditions under which the public works are determined in a large measure by the decisions of Government agencies. They regulate the price of milk and the content of a tube of lipstick. They award benefits and pensions, as well as Government contracts. They regulate the truckers, the railroads, and the airlines. They regulate radio and that new giant—TV. They even regulate union elections.

A decade ago Mr. Justice Jackson said:

"The rise of administrative bodies probably has been the most significant legal trend in the last century and perhaps more values today are affected by their decisions than by those of all the courts."

But that was a decade ago; and since then their decisions have multiplied beyond belief. It is a celebrated—but not unusual—statistic, about which one member of an administrative agency testified before the subcommittee, of which I am a member, when he said that in 5 years he had made 18,000 decisions; and he is only one of the many men making such decisions.

We are usually so occupied with the hundreds of government problems as they arise that we may not give much thought to the fact that the federal administrative agencies, taken together, constitute the major part of our government. Though they are not provided for in the Constitution, they exercise functions which would otherwise be exercised by the Congress, the executive, and

* 109 Congressional Record, 88th Cong., 1st Sess., June 4, 1963.

the courts. They operate outside of the system of checks and balances established in our Constitution as they make policy, execute it, and sit as judges in cases involving the public. Indeed, they have become almost a government unto themselves, and they act with such independence and are subject to so little control that they have become known as the headless fourth branch of Government.

Neither the Congress nor the executive have been unaware of this problem. As far back as 1933, Senator Norris introduced a bill to create a court of administrative justice; and in the same year the American Bar Association appointed a special committee to look into the problem. A little later, President Roosevelt appointed a Committee on Administrative Management in the executive branch of the Government, which in 1937 issued a report recommending a complete separation of the adjudicatory functions and personnel from those having to do with investigations or prosecution.

In the next decade, many of the famous Members of Congress were associated with this problem—not only Senator Norris, but also Senator Logan and our late colleague and good friend, Senator Pat McCarran. On the House side, the burden was carried by two very able men. One is the gentleman from New York [Mr. Celler], and the other is our late beloved colleague, Mr. Walter who labored so long and hard on the drafts of this bill.

The efforts of all these great men resulted in the passage of the Administrative Procedure Act in 1946. It was a great step forward; but it was taken 17 years ago, and under the relentless pounding of the proliferating administrative agencies and their ever-increasing workload, much that it attempted to do has been washed away. The time has come when we must shore it up again.

Every President has felt this problem important enough for high-level consideration. President Truman appointed the Hoover Commission, which studied administrative procedures, and made recommendations for reform. Early in his administration, President Eisenhower established the Conference on Administrative Procedure, under the chairmanship of Judge Prettyman; and that conference studied the problem for 2 years, and made many recommendations. Then, in 1960, President Eisenhower laid the groundwork for another national conference on administrative procedure; and the idea was carried on by President Kennedy, who sent to the Congress a message urging consideration of the problem of administrative reform. He also established a new Administrative Conference of the United States, with Judge Prettyman again as its Chairman. This Conference completed its work in December of last year, and also made a number of recommendations. Non-Government organizations, such as the American Bar Association and the other bar associations, have made intensive studies of this problem; and they, too, have made recommendations.

At the same time, we in congress have not been idle. For 4 years the Subcommittee on Administrative Practice and Procedure, of the Senate Committee on the Judiciary, has been making detailed studies of the troublesome areas and problems in administrative procedures. A special subcommittee in the House has also been at work on this problem, under the chairmanship of Mr. Walter, and for many months now has, with our Senate Subcommittee, carried on a joint effort to draft a bill.

This bill, which is introduced today, is the result of all these efforts. It is based upon the recommendations of the Hoover Commission and the two Conferences on Administrative Procedure chaired by Judge Prettyman. It has drawn heavily upon the recommendations of the American Bar Association and other bar associations. Significant contributions have also been made by faculty of the Harvard Law School and the other schools. Almost every one of the provisions of this bill has already been the subject of searching comment by the Federal administrative agencies, as they have been embodied in legislative proposals introduced in the last few years.

POLICY AND PARTICULAR CASES

The bill is a long bill; and at this time I shall mention only some of its significant provisions. The first is the manner in which the bill deals with a major problem which has been compounded in the last few years by some court decision. It grows out of the fact that the provisions in the existing law dealing with agency rulemaking apply not only to general policy matters but also to particular cases. As a result, some difficulties have arisen because what is an appropriate manner in which to make policy decisions is not necessarily the best way to decide cases. Policymaking requires a certain amount of flexibility and a broad outlook. Particular cases require a look at the facts in the record. The important thing is that policy should apply fairly and equally to everybody; there should not be one policy for one person and a different policy for another person. And so the bill provides that when an agency is dealing with questions of policy it should have all of the flexibility and all of the freedom it needs, but when the agency is applying that policy to the facts of a particular case, it should be limited to the facts in the record.

There may be a great hue and cry by the agencies that they cannot possibly determine in advance all of the policies necessary to fit all of the particular situations which may arise in the future. That is true. From time to time policies will have to be made as the issues arise in particular cases. All that this bill requires is that the agencies make it clear to the public when they are dealing with matters of policy and when they are applying that policy to the facts of a particular case.

The bill also deals with another aspect of this problem. No matter how carefully an agency makes its policy there will always be the inevitable situation in which a general rule works an unintended hardship in a particular case. At the present time, if any relief is to be given in such a case, an agency must either change or disregard its rule, or engage in some fine and probably illogical distinction on the facts. None of these alternatives is a wholly satisfactory solution and the bill provides a different alternative. It would permit an agency to grant an appropriate exception to a rule which worked as unintended hardship, based upon the particular facts presented by the person affected. The matter would be determined on the record after a hearing. This procedure would hold a number of advantages. It would be an advantage to the public because it would not be necessary for the person affected to show that the whole rule should be changed or abolished, but only that an exception was warranted on the facts of his case. The procedure would also be advantageous for the agency because it would not have to consider the tough problem of whether the harm done in the particular case by the general rule made it necessary to change or abolish the rule. Instead, the agency would only have to consider whether an exception should be granted on the particular facts presented. To keep the opportunity to seek exceptions from being abused, the bill provides a summary procedure which can be used by the agency.

THE TROUBLE WITH ADJUDICATION

There are a host of complaints about the conduct of adjudicative proceedings. I have discussed some of them on this floor from time to time. It seems that much of the difficulty stems from the fact that adjudicative proceedings are frequently longer and more complex than the situation requires. A vast percentage of all adjudicative matters are actually noncontested and, in those cases, the procedures which are required and unnecessary steps to the case. On the other hand, in a contested proceeding, the present procedures do not seem to lead to a simple and direct result. Indeed, at times, they appear to encourage the parties to unduly complicate the proceeding. Any improvement in the situation requires some changes in the way such proceedings are conducted.

PREHEARING CONFERENCES

First, there is a great need for an adequate prehearing conference procedure. It should be under the guidance of the presiding officer assigned to the case and it should begin as soon as practicable after the pleadings are completed and not end until the hearing is about to begin. A continued effort should be made at these conferences to dispose of the various issues of fact and law involved in the case. Too often the agency and the other parties seem to regard the prehearing conference as just "going through the motion." The parties and the presiding officer come to the prehearing conference with little or no preparation and completely unable to enter into a serious discussion of what is involved in the case.

Some teeth are needed in such a procedure. The presiding officer should not only be prepared himself, but he should be able to require the parties to make oral or written statements of the facts and issues and to argue in support of their position at the conferences. This is the time for the parties to reveal the strength of their case and point out the weakness of the opponent's case. This is the time to disclose the secret weapon which would end the proceeding. I predict that after a good prehearing conference, a series of such conferences if need be, the hearing itself will proceed much more expeditiously to a fair result because the fat will have been cut out of the case and its bones will have been laid bare.

STREAMLINED PROCEDURES

Second, there is a need for a streamlined procedure in many cases. Right now, the law requires the same procedures in a noncontested case as in a contested case. This is not good, and the bill provides a lawful alternative, an informal procedure. But the procedure would have many other applications as well. The informal adjudicative proceeding has been likened to a court procedure. The informal proceeding provided by the bill would be a truly administrative proceeding in which the agency would have the fullest opportunity to exercise its talent and expertise in arriving at an acceptable decision in the public interest.

However, to the extent that the decision was not acceptable to the parties and they are entitled by the Constitution or by statute to a decision on the record after an opportunity for a formal hearing, the bill provides that any party may file objections to the decision and that such objections will be heard and determined in a formal proceeding. Now, these objections must be specific, so the issues remaining to be resolved in the formal proceeding will be narrow, and I have noticed that the burden of being specific has generally worked quite well in limiting the issues which lawyers raise on appeal to those which are material. So I think by this device we will have to cut down the record and issues in the formal hearing to what really counts.

LIMITED REVIEW

Third, the bill changes the manner in which decisions are made and reviewed. Several years ago a critic of the administrative process said that decisions were made "on the dark side of the moon." That is the place, they say, that a little group of men meet and rewrite the decision of the officer who presided at the hearing. This little group of men have not heard the evidence or seen the witnesses. They have not heard the argument but they have the ear of the members

of the agency and the power to pick and choose from the record which has been prepared as they rewrite the decision of the presiding officer. It is said they sometimes torture that record to get the result they want.

That is a dark picture indeed, if the allegations are true. But we do not have to decide whether the allegations are true or whether they are false. It is enough if they could be true. I suggest that we bring this dark side of administrative proceedings into the public view just as we are trying, in our space efforts, to bring the dark side of the moon itself into public view. Last year the Administrative Conference of the United States approved a recommendation which would bring decisionmaking out into the open. Under this proposal the decision of the presiding officer would not be subject to being rewritten by a little group of men on the dark side of the moon. Instead, it would only be subject to review on the issues presented in written exceptions which spelled out how some error was committed by the presiding officer in making his decision or some specific question which should be reviewed. Everyone will then know what is being reviewed and why. Although the agency staff can file exceptions as a party the bill goes further to satify some doubts and provides that either the agency itself or the appeal board, whichever is reviewing the matter, can raise any other questions of fact or law which are material, provided it gives reasonable notice of such questions to all parties and permits the parties to present arguments thereon.

DELEGATION

I have commented in the past that with the thousands upon thousands of decisions which the administrative agencies must make, I do not believe we can expect the agency members who are only human beings to be able to devote enough time to making agency policy if they are also required to make the final decision in every case as well. Therefore, the bill proposes that the agencies be permitted to establish agency appeal boards to review the decisions of presiding officers unless the agency itself decides to grant the application of a private party, which is a party other than an agency, and review the matter itself.

I believe this carries out the principal intent of the reorganization plans submitted by the President 2 years ago, without the vice which I found in those plans. That vice was a very simple one and yet a very major one, because it denied any appeal from the decision of the presiding officer at the discretion of the agency. This bill provides a right of appeal to the appeal board and a discretionary right in the agency to hear the appeal. By so doing it constitutes a parallel procedure to that adopted by our courts.

THE RIGHT OF THE PUBLIC TO KNOW

The bill also takes a good look at the public information section in the present law. This is the section which requires the agencies to provide information to the public. So far as the subcommittee has been informed there are relatively few complaints about information not being published in the Federal Register if the present law requires it. The great problem is that often the information is stated in official gibberish making it almost impossible to understand. I am told that the Federal Register is working hard to alleviate this problem and that the Administrative Conference has made certain recommendations in this regard, but it is not a problem which can be effectively dealt with by statute. All that we can do is to put some additional teeth in the penalty which an agency suffers for failure to properly publish the required information.

Where we began to have trouble is with the reluctance of the agencies to make available to the public all the rules adopted by them which affect the public and all of the decisions in cases concerning the public. The agencies have been very generous in their interpretation of the exceptions in the existing law. So generous at times that they have been able to ignore the intent of the Congress that this information should be available to the public. So, here again, we have to do a bit of shoring up to bring things back the way they are supposed to be.

However, the greatest problem comes in the availability of agency records and here let me tell you a little story that actually happened. There was a farmer out in my State and he found to his dismay a year or so ago that his acreage allotment had been cut by the county committee. He went before the local committee and protested and showed them his figures. After considering the matter the committee gave him back his acreage allotment but the next thing the farmer knew his acreage allotment was reduced again. He made another trip to the county committee and he asked why. He was told that the committee had received evidence against him. He asked what that evidence was so he could properly meet it and he was told that under section 3 of the Administrative Procurement Act that information could be withheld from him. This puzzled him because the law says that matters of official record shall be made available to "persons properly and directly concerned" and certainly he was properly and directly concerned. Oh, the agency said, you may be properly and directly concerned but the law also provides that we can withhold information for good cause found and we have determined that to show you the information given against you by your neighbors would "impair the interests" of your neighbors and that is good cause for withholding the information from you. The farmer asked how he should meet the case against him if he did not know what it is but he received no other answer. This matter went all the way to the Secretary of Agriculture. Let me read the reply of Secretary Freeman:

"This is in reply to your letter of July 17, 1962, requesting advice as to the specific authority relied upon by the Department of Agriculture in withholding from a producer the names of persons supplying information adverse to him in connection with his participation in the feed grain program.

"Department regulations governing the availability of information and records comply with the requirements of section 3 of the Administrative Procedure Act, 5 U.S.C. 1002. Such section provides in part as follows:

'Sec. 3.—

'(c) Public Records.—Save as otherwise required by statute, matters of official record shall in accordance with published rule be made available to persons properly and directly concerned except information held confidential for good cause found.'"

So we have tackled this problem in this bill.

There is another aspect of public information which is also important and that is the right of the general public and the news media to the facts connected with the operation of this Government. Under the terms of the present statute they are often denied access to information on the ground that they are not directly concerned. And so we have made a change in the law in order that the people can know what is happening in their Government.

TRIAL BY PUBLICITY

The last major point I wish to discuss is the provision in the bill which will protect the public from trial by publicity where the agency has not actually commenced a proceeding.

I am always greatly disturbed when I read statements by agencies that they intend to accomplish their purposes by publicity rather than by deciding cases. In plain terms this means that that agency is going to exert the full power of the Government's publicity resources against some individual without going to the trouble of proving its case. The bill puts a stop to this. It provides for the Supreme Court to set up rules governing the release of information by the agency prior to the actual commencement of a proceeding and it permits punishment for contempt for any violation of such rules.

The bill also provides a restraint on the institution of proceedings by an agency without good cause merely to provide a basis for a publicity blast. This restraint would be similar to one which we already use and which is historic in our system of justice when we require a prosecutor, however, fair-minded and right he may be, first show reasonable grounds for the indictment to a grand jury before he can get an indictment against a man. The bill applies the same idea to administrative cases by providing that the agency must show to a special grand jury, hearing administrative matters only, that the agency has probable cause to begin a proceeding for the issuance of certain types of sanctions. You will note that they include only those administrative proceedings which are of a serious nature and restrict or affect the freedom of people, or impose a penalty or fine, or revoke or suspend a license, or take or seize property, or some similar compulsory or restrictive action.

PROTECTION OF THE PEOPLE

These are the highlights of the bill. It deals with the protection which the people of this country must have when they are caught up in the labyrinth of the administrative proceedings. It deals with the problems of all the people of this Nation when they are faced with the might of the Federal Government. Taken individually their problems are lost in the sweep of the great issues of the hour. But to each of them their problems are of significant and often overwhelming importance. We cannot afford to say that the passage of time will solve these problems because they will be forgotten by the people when the case is over. If the procedures of the agencies are inadequate, they should be reformed and we must do the job. The Federal agencies are increasing in number every year and their activities are expanding into every area and facet of our lives. More cases are started every year then are finished during the year. The number of such cases keeps growing by the tens of thousands.

The committees of the Senate and House have given the matter of reform lengthy and detailed consideration. The problem has been studied and considered by conferences called by every President for the last decade and a half. The bar associations and other legal groups have worked tirelessly to bring these problems to the fore. I urge that the most careful consideration be given to this bill and that we proceed with it with good speed.

FOREWORD—A PERSONAL PERSPECTIVE

(By Cornelius B. Kennedy*)

This volume of the *Administrative Law Review* is devoted to the American Bar Association's proposals for improvements in the Administrative Procedure Act. The present proposals are embodied in 12 resolutions adopted by the House of Delegates in August, 1970, and, together with suggested legislative language to implement the recommendations by appropriate amendments to

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the Administrative Procedure Act, represent a highly condensed version of many years of effort.[1]

The 12 recommendations urge:

Recommendation 1. Amending the definition of rule and, therefore, of rulemaking, to exclude matters of *particular* applicability.

Recommendation 2. Deleting many of the exemptions from the requirement of notice and public participation in rulemaking proceedings.

Recommendations 3 and 4. Broadening the separation of functions and *ex parte* concepts in the Administrative Procedure Act to include all proceedings required by law to be decided on the record after opportunity for agency hearing rather than only adjudicative proceedings.

Recommendation 5. Providing greater uniformity in rules governing pleadings and other matters in informal adjudicative proceedings.

Recommendation 6. Authorizing appeal boards and certiorari type appeal procedures.

Recommendation 7. Making more effective utilization of prehearing conferences.

Recommendation 8. Giving greater significance to the decision of the hearing officer who presides over the presentation of evidence.

Recommendation 9. Approving the concept of abridged procedures, with appropriate limitations.

Recommendations 10 & 11. Providing generally for subpoena power and for minimal standards for informal adjudications, and

Recommendation 12. Making available a sanction in the case of prejudicial publicity issued by an agency.

The significance of these proposals is attested by the durability of this project and by the high caliber of those who have participated in it over the years.[2] The project began over a decade and a half ago, in 1955, when the President of the American Bar Association appointed the Special Committee on Legal Services and Procedure [3] to consider both the recommendations which had just been issued by the Hoover Commission and its Task Force on Legal Services and Procedure as they pertained to the operation of the federal administrative agencies, and the report submitted that year by the Conference on Administrative Procedure which had been called by the President of the United States in 1953 at the instance of the Chief Justice of the United States.

After a review of the recommendations of the Commission, its Task Force, and the Conference, which were far-reaching in scope and complex in detail,[4] the Special Committee made its report to the House of Delegates of the American Bar Association in 1956. On the recommendation of the Special Committee, the House of Delegates adopted a set of seven resolutions calling for a "comprehensive reexamination" of the Administrative Procedure Act of 1946 and its replacement by a "Code of Federal Administrative Procedure" [5] sponsored by the American Bar Association [6] as well as other basic reforms in federal administrative practice.

THE SPECIAL COMMITTEE AND THE CODE

The mandate to seek the replacement of the Administrative Procedure Act by a comprehensive Code of Federal Administrative Procedure was carried out by the Special Committee which, under a succession of able chairmen, Ashley Sellers, Harold L. Russell and the late Robert M. Benjamin, prepared a draft of such a Code.[7]

In 1959, that Code was introduced in the Congress as S. 1070.[8] It was referred to the Subcommittee on Administrative Practice and Procedure which had been established by the Senate Judiciary Committee in 1959 at the urging of the American Bar Association and others as a standing subcommittee having authority over federal agency procedures and practices of common application among the various departments and agencies of the government.[9]

S. 1070, the proposed Code, represented a far more extensive revision of the Administrative Procedure Act than the amendments now proposed to implement the House of Delegates resolutions adopted in August, 1970. However, notwithstanding the fact that the Code was the effort of eminent lawyers with substantial experience, it did not receive the same approval which Attorney General Cummings, in 1946, gave the bill which became the Administrative Procedure Act.[10] Instead of supporting S. 1070, the federal agencies strongly opposed the bill and filed extensive adverse comments with the Senate Judiciary Committee contending that the bill would interfere unduly with the efficient and economical operations of the Government.

In order to respond to the extensive agency opposition to S. 1070, the Special Committee next requested three scholars with broad experience in the administrative process to serve as consultants and review the comments of the agencies and prepare an analysis of the comments.[11] Using the scholars' analysis, the Special Committee then prepared an extensive commentary on the proposed Code to provide an interpretation of the impact and extent of the changes which the Code would make in the Administrative Procedure Act.[12] Although it did not refer to the specific comments of the various agencies, the Commentary was an effort to answer the objections to the Code which had been expressed by the agencies.

Notwithstanding these efforts of the Special Committee, it almost immediately became clear that the Code of Federal Administrative Procedure proposed in S. 1070 as a complete replacement of the Administrative Procedure Act would be difficult to achieve.[13] The repeated assertion in the agency comments that the complete revision of the Administrative Procedure Act as to style, as well as to substance, as proposed by the American Bar Association, would raise many questions of construction which could only be settled by the extensive litigation, proved to be a more serious objection to the American Bar Association proposal than may have been anticipated.[14] As a result, Congressional subcommittees began to explore the possibility of specific revisions of the Administrative Procedure Act as an alternative approach.

THE CONGRESSIONAL PERIOD

Utilizing to good advantage the compilation of comments prepared by the consultants to the Special Committee, members of the staffs of Senate and House Judiciary subcommittees prepared a proposed bill which adopted in large measure the principles urged by the American Bar Association but which expressed those principles as amendments to the Administrative Procedure Act. This bill, introduced by Senator Dirksen, became the major vehicle during the next five years for legislation to improve the procedures of the federal administrative agencies.[15] It, too, became the subject of considerable agency opposition.

In view of this agency opposition, the Senate Judiciary subcommittee in March 1964 met with representatives of the American Bar Association for an extended review of the various issues to which the recommendations for revision of the Administrative Procedure Act were directed. The transcript of those sessions runs 486 pages and reports the thinking, which had been refined by long experience and concerted effort, of many of the participants of the American Bar Association in this effort.

In reviewing the transcript eight years later, in connection with the preparation of this Foreword, it was interesting to note that matters which were discussed at that time as hypothetical situations have actually occurred during the intervening period. For example, I was concerned with how price control would be handled:

"Suppose that we were to have price control again and we were going to be fortunate enough to have it subjected to an administrative proceeding of some type. The question is shall we roll back prices to the first of July or some other date? Would that be a rulemaking proceeding or adjudication.?" (Tr. p. 59)

and Mr. Franklin Schultz, in connection with revising Sec. 5(a) dealing with notice, was concerned with:

". . . the protection of the consumer from some forms of deception, which is hard to think of in terms of safety." (Tr. p. 126)

It is also worth noting that Mr. Schultz, commenting on the impact of the change of the definition of rule, wisely suggested that one of the advantages of inserting a new provision in the Administrative Procedure Act to cover informal adjudication would be that such minimum procedural requirements would then apply to those rulemaking proceedings of particular applicability which would become adjudication under the proposed change in definition but which were not required to be determined on the record after opportunity for hearing. Without a provision covering informal adjudication, there would be no minimal procedural standards for such proceedings because they would not be covered by the formal adjudication section of the Administrative Procedure Act.[16]

After that bill, S. 1663, had been thoroughly revised by the subcommittee staff as a result of agency comments, meetings with the American Bar Association representatives and others, Senator Dirksen, on March 4, 1965, introduced the revised version, S. 1336, in the 89th Congress. He referred to the two years of study by the Subcommittee, the three day on-the-record meeting in March, 1964 at which the representatives of the American Bar Association gave their views, and the work of a highly qualified group of consultants to the Subcommittee in his statement to the Senate.[17]

In that statement, Senator Dirksen described the steps in the preparation of the bill and its importance:

"After receiving comments from all of these sources the subcommittee began the task of refashioning the provisions of the bill so as to take account of the many suggestions which it had received. Every proposal was analyzed and tested. Some were rejected; others were modified. Our purpose was to contrive a set of procedures which would meet the needs of the public as well as the needs of the agencies.

"It is important that both needs be met because there is scarcely a facet of our life which is not affected by the decisions of these administrative agencies. They do not regulate just big business or little business; they determine the price of milk for babies and old-age pensions, the acreage allotments of farmers, unfair labor practices, union representation, civil rights, social security benefits and, under legislation now being considered, they would decide the benefits under aid to education and medicare. Each time we expand the functions of this pervasive Government of ours, it means either creating a new agency or expanding an old one to take care of the administration of that new activity." Cong. Record, vol. 111, pt. 3, p. 4088.

He commented, too, on the unique and important role of the administrative agencies in our structure of government:

"These administrative agencies may be independent agencies or they may be departments or parts of departments. A list, even in rather small print, of all the administrative agencies which we now have take up a large

Footnotes at end of article.

section of a wall. They have been called the headless fourth branch of our Government for they are a governing force in our lives. Yet they are not mentioned in the Constitution; they are neither the Congress, the President, nor the courts. But they exercise legislative, executive, and judicial functions. They establish policies which have the force of law; they administer those policies; and they act as a tribunal to decide cases involving the policies."

Nevertheless, in spite of the very substantial amount of work which had gone into S. 1336 in an attempt to meet the opposition of the federal agencies, S. 1336 fared little better than its predecessors so far as agency comments were concerned. One agency, for example, began its comments:

"S. 1336 is a better bill in some respects than S. 1663, introduced in the 88th Congress. However, we must oppose S. 1336 for essentially the same reasons which compelled us to oppose S. 1663. Broadly speaking, the objectionable aspects of S. 1336 are as follows: (1) the imposition of stringent separation-of-functions requirements in ratemaking, and in all merger and licensing proceedings, (2) the public information section of the bill that would allow anyone to harass the Commission by demanding to see 'all its records', (3) the unneeded infusion of delay-producing judicialized hearings and appellate procedures into the Commission's present, comparatively simple, case-processing techniques, and (4) the shifting of decisional responsibility from the duly appointed agency members to hearing examiners." [18]

Ironically *that* agency gave its "vast work load" as a reason for its objection to S. 1336, which proposed to shift much of the work load to hearing examiners. It objected to the application of the separation of functions doctrine to ratemaking cases on the ground that if a hearing examiner had a case involving a problem of cost accounting, he ought to be able to ask the agency cost accountant for advice and assistance without giving the other parties notice and opportunity to participate, and it objected to provisions which would increase the stature of hearing examiners, stating:

"The bill here misconceives the proper role of hearing examiners who are employees of the agency, and not of another branch of government. The proposed change in the bill would promote discord within the agency and uncertainty over the role of these employees vis-a-vis their employers." [19]

Notwithstanding such objections, on June 21, 1966, the Senate passed S. 1336 in the final form recommended by the Senate Judiciary subcommittee. After almost 7 years, the principal recommendations of the American Bar Association for improved administrative procedures had passed one House of Congress, even though in a format substantially different from the Code originally proposed by the American Bar Association.

Unfortunately, after the death of Rep. Walter, the House lacked a focal point for such legislation similar to the Subcommittee on Administrative Practice and Procedure in the Senate. S. 1336, after its passage by the Senate, remained in the House Committee on the Judiciary until the close of the 89th Congress when it automatically died.

While it is likely that the fate of S. 1336 in the House could be attributed to the aroused opposition of the administrative agencies, the passage of the bill by the Senate also stirred the agencies to a reappraisal of their own position. This reappraisal was spearheaded by Frank Wozencraft, then Assistant Attorney General, Office of Legal Counsel, and produced two tangible results. One was the preparation of amendments which the administrative agencies could "live with." [20] The other was the convening of a day-long symposium in Washington sponsored by the American Bar Association and attended, at the urging of the Department of Justice, by over 100 senior staff personnel from the various agencies.

At this symposium, held on December 1, 1966, the usual roles were reversed and the agency representatives fired their questions at a panel composed of present and former members of the staff of the Senate Judiciary Subcommittee on Administrative Practice and Procedure and representatives of the American Bar Association. The colloquies which ensued at that symposium, on rereading the transcript nearly six years later, still clearly point up the human side of the deep-seated fears and concerns which motivated the opposition of the administrative agencies to the various proposals to replace or revise the Administrative Procedure Act. It is well worth reading.[21]

The following year, Senator Dirksen and the chairman of the subcommittee again introduced legislation, S. 518, and, at the opening of hearings on that bill on March 6, 1967, the chairman of the subcommittee stated:

"It is with a feeling of optimism that we open these hearings on S. 518 this morning. It is the view of many, including myself, that a new, improved Administrative Procedure Act is long overdue.

"Thanks to Senator Dirksen who introduced S. 518 and its predecessors, the American Bar Association, which has worked so diligently in behalf of this legislation and many excellent lawyers in the departments and agencies, we now have a bill that, although not quite perfect, is approaching perfection."

"As you know, S. 518 is identical in many respects to S. 1336 of the 89th Congress which passed the Senate last June. The changes which have been made in the new bill are the results of a special seminar held in December 1966 under the auspices of the ABA. At this seminar there was a lengthy exchange of ideas on an informal basis between agency representatives, ABA lawyers, and the subcommittee staff.

"My optimism as to the future of the legislation depends in part on the increased interest in the legislation on the part of the executive branch and we think that they feel that for the first time the bill has a real chance of enactment, and they wish to perfect it in the every way possible. We share their hope because we are aware this complicated bill can probably be further perfected before passage. In any event, we shall listen to their suggestions with the greatest attention." [22]

Mr. Wozencraft, Assistant Attorney General, testifying for the Department of Justice, also referred to the American Bar Association goals and to the December, 1966 Symposium:

"The goals of this proposed legislation are not controversial, but its provisions certainly are.

"A useful step toward this kind of analysis was the Symposium which the ABA sponsored last December, when members of the legal staffs of the Executive department and agencies met with members of the American Bar Association Special Committee and the Subcommittee staff to discuss S. 1336. That session made very clear the deep concern of many government lawyers that S. 1336 would cripple the operations of their agencies in certain areas. I was delighted to see a response to this concern in the changes from S. 1336 which are reflected in S. 518. Some of these changes are clearly beneficial. Others seem intended to solve problems raised by the agency lawyers, but it is not clear that they succeed in doing so.[23]

He made it clear, however, that the major revision of the Administrative Procedure Act urged by the American Bar Association still posed many problems:

"We are dealing here with the very fabric of government. If the Administrative Procedure Act is to be substantially revised, it is imperative to know just what functions would be newly brought under the Act and just what procedures would be newly required.

"Provisions which have worked well, however, should not be changed merely because the Act is more than 20 years old. There are many who are not yet persuaded that a revision as far-reaching as S. 518 is desirable.

"The first question has to do with the removal and narrowing of exemptions.

"It may well be that in some instances the old exemptions were too broad and should be narrowed. But as to each change it is important to ask whether it is desirable, and just what the practical consequences would be. Does the rephrasing of an exemption raise new problems of interpretation?

"A second question is this: Would S. 518 improve the decision-making process or would it impair the effectiveness with which some agencies can make policy determinations and manage their caseload." [24]

The closing testimony at the hearings in the spring of 1967 was by representatives of the American Bar Association and reflected the frustration of the practicing bar:

"We remember that at that time the agencies were resistant to any uniform procedural statute on the grounds that all agencies were different and that their functions were not capable of being reduced to any common denominator. While some of the agencies now admit the need for some change, others stand firm on the ground that the 1946 act which they opposed in 1946 is a piece of legislation which does now need modification." [25]

After hearing the frustration expressed by the proponents of reform and the now aroused fears and concerns of the opponents of the legislation, the activation of the permanent Administrativve Conference of the United States in January, 1968 encouraged the Congress to cease its own efforts to develop amendments to the Administrative Procedure Act and adopt a "wait and see" approach on the need for legislation until the effectiveness of the Administrative Conference as a means of achieving the desired reforms without further legislation could be appraised.

ABA reappraisal and the adoption of a new approach

When it became apparent that active Congressional consideration of proposals to revise the Administrative Procedure Act was winding down, both the Special Committee on the Code and the Council of the Administrative Law Section reappraised the efforts and goals of the American Bar Association in this area. It appeared, on the one hand, that the amendments proposed by the agencies [26] to make a major revision of the Administrative Procedure Act acceptable to them promised too little in worthwhile improvements and, on the other hand, that a major revision of the Administrative Procedure Act which required battling the objections of the administrative agencies promised too little chance of success.

Therefore, it was decided to abandon the effort to secure the replacement of the Administrative Procedure Act with the comprehensive Code which had been prepared by the American Bar Association and, instead, to adopt an approach concentrating on gaining the widest possible recognition, acceptance and support for specific amendments to the Administrative Procedure Act. It was agreed that the Special Committee on Revision of the Administrative Procedure Act, a product of several metamorphoses of the Special Committee on Legal Services and Procedure, would prepare and present to the House of Delegates of the American Bar Association resolutions setting out the particular areas of major reform which it was felt were desir-

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able in the Administrative Procedure Act. Further responsibility for the project would then be transferred to the Section on Administrative Law.

The Special Committee carried out its assignment by the preparation of 12 resolutions and accompanying comments. Each resolution called for a specific improvement in the Administrative Procedure Act to implement major principles of fair and efficient administrative procedures. These resolutions were presented to the House of Delegates and were adopted by that body in August, 1970. It is readily apparent from an examination of the 12 recommendations that, while the replacement of the Administrative Procedure Act was no longer recommended, the major areas of administrative procedure which the American Bar Association has long felt needed improvement are still fundamentally the same. On the other hand, although the present proposals adopted by the American Bar Association do not represent a retreat from what the Association believes are necessary improvements in the Administrative Procedure Act, they do represent a recognition that these improvements must be presented by the American Bar Association as general principles accompanied by illustrative statutory language, to be further discussed and refined through the joint efforts of the organized bar and the agencies in order to "offer a hopeful prospect of achieving reasonable uniformity and fairness without at the same time interfering unduly with the efficient and economical operating of the Government," as was the case in the final version of S. 7 which became the Administrative Procedure Act.[27]

The task of preparing a draft of legislative language which could be used to implement the recommendations contained in the 12 resolutions adopted by the House of Delegates was assigned to a special drafting committee created by the Administrative Law Section, which now bears the responsibility of carrying on the project. The chairman of the new committe was William Ross, the last chairman of the Special Committee on the Code.

The drafting committee presented its recommendations with respect to legislative language to the Council of the Administrative Law Section at the mid-winter meeting of the American Bar Association in February, 1972. The Council considered eight of the recommendations at that time and the remaining four recommendations at its spring meeting in Toronto in June, 1972. As the report of the committee indicates, legislative language was not proposed to implement two of the recommendations which the committee felt could be implemented through the efforts of the Administrative Conference. The legislative language proposed by the committee to implement the remaining 10 proposals was approved with changes by the Council, which also approved the appointment of a two-man "committee on style" to prepare the final proposed text of the legislative proposals. Jerre Williams, the first Chairman of the Administrative Conference, and I, as the two members of the committee on style, then prepared for final approval by the Council the necessary revisions of the proposed legislative language to reflect changes made by the Council and also a brief accompanying comment in explanation of each recommendation. This highly condensed document now represents the position of the American Bar Association with respect to desirable improvements in the Administrative Procedure Act.

THE ROAD AHEAD

In concluding this personal perspective with a look at the road ahead, I should emphasize that the view is purely personal, but I hope it is a view which is shared by many others. The perspective has two dimensions, the reasons reform is needed and the action necessary to achieve reform.

The major reasons for reform of the Administrative Procedure Act have not changed significantly since Senator Dirksen's analysis of the areas which needed attention at the time he introduced S. 1663 in 1963. They are as follows:

GENERAL POLICY AND PARTICULAR CASES

The provisions of the present Administrative Procedure Act governing agency rulemaking proceedings apply not only to general policy matters but also to cases involving particular persons. As a result, difficulties have arisen because an appropriate procedure for making policy decisions is not necessarily the best way to decide cases involving the rights and obligations of particular persons. Policymaking requires input from many sources. Proceedings involving the rights and obligations of particular persons, on the other hand, require narrow focus on the facts relevant to that particular case. Thus, it would appear desirable to limit the more flexible policymaking procedures to matters of *general* applicability and future effect, and to treat matters of particular applicability as adjudication. This rationale applies whether or not the particular rulemaking or adjudicative proceeding is formal or informal, that is, required by some other statute to be determined on the record after opportunity for agency hearing.

Thus, there is substantial justification for the proposal of the American Bar Association that the definition of rule should be revised so that matters of particular applicability are no longer treated as rulemaking proceedings, and for the companion recommendation that the specific enumeration of the approval or prescription of rates, wages, corporate or financial structures or reorganization, and the like should be deleted from the definition of rulemaking. To the extent that rates, wages and such other matters are of general applicability they would still come within the definition of rule and, therefore, of rulemaking and be subject to the broader more flexible rulemaking procedures. However, a proceeding dealing, for example, only with the rates, wages, or financial structure of a particular company would become adjudication, and would be subject to the procedures governing formal adjudication if another statute required the proceeding to be determined on the record after opportunity for agency hearing.

The procedure for exemption or exception from a rule in particular situations is also worth consideration. At the present time, the procedure for the amendment or modification of a rule would appear to be the only procedure generally available. However, if permitted by statute, a request for an exemption from a rule could be treated as adjudication and determined either as formal adjudication or as informal adjudication depending on whether another statute required the decision to be based on the record after opportunity for an agency hearing. Since both approaches have appeal, it would seem desirable to consider an amendment to the Administrative Procedure Act which would authorize an agency to select the procedure which best suits the subject-matter subject to its jurisdiction. For example, an application for exemption from a rule dealing with export controls might be treated differently from a request for exemption from rules relating to camping in the national parks.

PREHEARING CONFERENCES AND SUBPOENAS

There is a substantial need both to make available to the agencies and the public and to encourage the use of improved procedural tools in order to improve the efficiency and shorten the time consumed in administrative proceedings. Since it is generally considered that, under the Administrative Procedure Act, agencies already have the authority to hold prehearing conferences to facilitate and expedite the determination of the facts and issues involved in a proceeding, the present goal is to insure that agencies exercise that authority, and effectively utilize prehearing conferences. The establishment of the Administrative Conference provides an independent body to carry out the functions of oversight on the progress which agencies make toward that goal.

With respect to subpoenas, the situation is different. While many agencies have been given the subpoena power by statute, others do not have that power and a general statutory authorization for subpoenas is necessary. It would appear that the least cumbersome procedure is to make subpoenas readily available to the parties on request, but to authorize every agency to establish a procedure to quash or modify such subpoenas on the ground that the evidence sought is lacking in general relevance, unreasonable in scope, or otherwise is not in accordance with law. This will permit an agency to strike down subpoenas which are unduly burdensome or obtained for purposes of delay.

STEAMLINED PROCEDURES

There is also a need for streamlining the procedure used in many cases. The Administrative Procedure Act has been interpreted by some agencies as requiring the same procedures in a noncontested case as in a contested case. It would seem that there should be an authorized alternative which will permit the use of some type of abridged procedure in a non-contested case or in a contested case in which all presentations have been submitted in writing and there is no oral cross-examination. Little can be said in favor of the practice which has been followed by some agencies of going through all of the motions of an oral hearing in such cases.

It is, of course, essential that an abridged hearing procedure should not cut away at the requirement that the decision be based on the record, or at any of the other fundamental requirements applicable to formal adjudication and that the presentations upon which the decision is to be based promptly, adequately and fairly inform the agency and the parties of the issues, facts and arguments involved in the case. It is also essential that the concept of abridged procedures should not preclude an agency from requiring the submission of all or part of the evidence in written form *without* the consent of all parties where the interest of a party will not be prejudiced thereby, as authorized by section 556(d) of the present Administrative Procedure Act.

PROCEDURES FOR INFORMAL ADJUDICATIVE PROCEEDINGS

While the present Administrative Procedure Act provides minimum requirements of notice and the right to present data, views and arguments in rulemaking proceedings not required to be determined on the record after opportunity for hearing, and also requires the agency to consider all relevant matters presented before making its decision, there is no comparable provision for minimum procedural requirements for adjudicative proceedings not required to be determined on the record after opportunity for agency hearing. As administrative proceedings increasingly affect a greater number of persons on an individual basis, it would appear that a provision establishing at least broadly phrased minimum procedural safeguards for "informal" adjudicative proceedings should be included as a part of the Administrative Procedure Act.

It is worth noting that while S. 1663, as revised by the Senate Judiciary Subcommittee staff in 1964, proposed that the minimum standards for informal adjudicative procedures should include a requirement that the procedures "shall promptly, adequately and fairly inform the agency and the parties of the issues, facts and argu-

Footnotes at end of article.

ments involved" in the proceeding, with review as provided by agency rule, the American Bar Association proposal stressed only the need for review on at least one level within the agency upon written request, as the minimum standard for informal adjudicative procedures.[28] Both the Senate Judiciary Subcommittee and the American Bar Association proposals deserve further study.

DELEGATION OF DECISION MAKING AND LIMITED AGENCY REVIEW

As the workload of the larger agencies steadily increases in volume, the time required for agency members to review and sometimes rewrite the findings of fact and application of agency policy in initial, tentative and proposed decisions made by agency staff has increased, in many cases, to the point where agency members have an inadequate amount of time left to consider broad policy issues. This practice of rewriting and reviewing fact determinations in hearing examiner decisions is undesirable not only because it floods agency heads with the details of many cases and prevents them from giving due consideration to general policy issues, but also because it reduces the significance of the decision made on the "trial" level. While an agency should always have the right to review a lower level decision when it desires to make new policies or change old policies, consideration should be given to limiting agency review of such decisions to those proceedings in which the hearing officer does not follow the duly promulgated agency policies applicable to such cases or in which his decision is not supported by the record. For that reason, the authorization by statute of some form of limited agency review of hearing officer decisions would be highly desirable. In addition to such a limited review procedure, the use of appeal boards should be considered to free agency members to work on general policy issues rather than fact issues in particular cases.

The argument against this approach is that it permits the facts to be found in a particular proceeding by an individual who has not been nominated by the President and confirmed by the Senate. On the other hand, in support of the approach it can be argued that, where the facts in a proceeding are concerned rather than the broad policy applicable, the individual who presides over the proceeding is in a better position to determine the facts than the agency head who is aware of the facts only through the review of transcripts, or abstracts of transcripts. A proper solution to this issue will also remove the traditional roadblocks to improved separation of functions and *ex parte* communications provisions governing agency proceedings by giving greater weight and significance to the role of the presiding officer.

TRIAL BY PUBLICITY

Finally, as the federal agencies in increasing numbers and to an increasing degree enter into the daily life of the public through their responsibilities with respect to regulated areas of business, consumer protection, wages, prices and trade practices, steps must be taken to prevent agencies from abusing their power to release information to the press as a means of obtaining compliance or engaging in trial by publicity. The placing of limits on such conduct, however, must recognize the paramount right of the government to release such information in emergency circumstances, or where notice of the action would be impracticable, without advance notice to the person who might be harmed. In other circumstances, however, it would appear reasonable to give the person with respect to whom such publicity is being released fair prior notice to permit that person to seek appropriate judicial action or to prepare material in reply. Any agency which makes public information which may reasonably be expected to harm a person should also be required to make public to the same degree any future agency action which would reduce that harm.

Finally, what action should be taken to secure these improvements in administrative procedures? One approach would be for the American Bar Association to urge that legislation to implement its recommendations be introduced in Congress. I personally hope that such a step will not be taken at this time. While I believe in the need for those improvements, the past course of events indicates that opposition or requests for exemptions should be anticipated and that the points raised must be resolved if the reforms are to be achieved. Perhaps the most valuable step which the American Bar Association took in connection with its past efforts in the area was the conduct of the day-long symposium with agency participants in 1966. Both through the sponsorship of such meetings and through the consideration which the Administrative Conference can give to these recommendations, a consensus may be achieved, on these problems. The agencies and the practicing bar must both be major participants in achieving this consensus. In 1946, the Congress indicated its willingness to act when such a consensus was achieved, and the Administrative Procedure Act was passed. Failure to achieve such a consensus prevented final Congressional action on the amendments in 1966.

However, it should also be noted that no consensus will be forthcoming unless the American Bar Association and others interested in this effort continue to urge that progress be made. The status quo is a dynamic, rather than a passive, state and resists change. The Administrative Procedure Act will not be amended without the application of effort by those who believe that reforms are desirable in the public interest. This is a task to which the American Bar Association must continue to be dedicated.

FOOTNOTES

[1] These recommendations, together with the resolution, the suggested statutory language and a brief comment appear as the first document in this volume.

[2] Ashley Sellers, Robert Benjamin, John Cragun, Donald C. Beelar, Harold Russell, C. Roger Nelson, Ben C. Fisher, Franklin M. Schultz and Milton Carrow served as chairmen of the Administrative Law Section, and Bernard G. Segal as President of the American Bar Association.

[3] Donald C. Beelar, Robert M. Benjamin and Bernard Segal were members, and Ashley Sellers was Chairman.

[4] Report of the Special Committee on Legal Services and Procedures to the 1956 mid-year meeting of the House of Delegates, p. 14.

[5] Resolution 1.

[6] *Supra*, Resolution 2.

[7] By contrast, the leadership in the development of the Administrative Procedure Act was undertaken within the federal government by the Department of Justice at the request of the Senate and House Judiciary Committees. See Introduction, Attorney General's Manual on the Administrative Procedure Act, p. 6.

[8] In view of its significance as the source of much of the amendatory language proposed during the following years, S. 1070 is printed as the second document in this volume.

[9] The text of the Senate resolution authorizing this action reads, in part, as follows:

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized . . . to make a full and complete study and investigation of administrative practice and procedure within the departments and agencies of the United States in the exercise of their rulemaking, licensing, and adjudicatory functions, including a study of the effectiveness of the Administrative Procedure Act, with a view to determining whether additional legislation is required to provide for the fair, impartial, and effective performance of such functions, S. Res. 61, 86th Cong.

[10] "The bill [S. 7] appears . . . to offer a hopeful prospect of achieving reasonable uniformity and fairness in administrative procedures without at the same time interfering unduly with the efficient and economical operation of the Government." Attorney General's Manual, p. 6.

[11] Dean Leo A. Huard, Prof. Rex A. Collings, Prof. Winston M. Fisk.

[12] Since the Commentary represents a detailed explanation of the significant changes proposed in the Administrative Procedure Act, it is reprinted as the third document in this volume.

[13] The extensive agency opposition to S. 1070 also prompted Senator Dirksen, the senior minority member of the subcommittee, to introduce S. 2849 as a different approach to achieving the same goals to which the Code was directed. Unlike the Code which dealt more broadly with the requirements for administrative proceedings, S. 2849 proposed a set of rules for federal administrative agency proceedings generally following the model of the Federal Rules of Procedure used in civil and criminal cases. S. 2849 also became the subject of a barrage of criticism by the federal agencies primarily on the ground that although the steps in proceedings before different agencies might be similar, the issues in the proceedings were different, and this difference justified a different set of procedural rules by each agency.

[14] Nevertheless, the American Bar Association continued to support the adoption of the Code as a complete revision of the Administrative Procedure Act for several more years. For example, even as late as 1964, when the American Bar Association proposed Code was no longer under active consideration by the Senate Judiciary subcommittee, the chairman of the Special Committee, Mr. Robert Benjamin, stated during Senate Judiciary subcommttee hearings:

". . . I would like to point out simply that that [S. 2335] is not the code as it was originally introduced and that it represents an attempt on the part of the ABA to take into account comment and criticism not only by the agencies directed to 1070, as it then was, but also by the staff of the Congress, and as Mr. Kennedy and Mr. Hyman know, we worked for a year or more, a year and a half, going over 1070 with them and 2335 incorporates a great many changes that were suggested by them as well as changes that were suggested by agencies and were screened by a committee of consultants of whom Mr. Fisk is a member of the consultants." (Tr. p. 13–14)

[15] S. 1663 and Sen. Dirksen's statement at the time he introduced the bill which contains a review of the problem areas from the viewpoint of a legislator, are included as the fourth and fifth documents in this volume.

[16] Tr. pgs. 131–136.

[17] Professor Clark Byse, Harvard Law School; Prof. Frank E. Cooper, University of Michigan Law School; Dean Joe Covington, University of Missouri Law School; Prof. Roger C. Cramton, University of Michigan Law School; Prof. Kenneth Culp Davis, University of Chicago Law School; Prof. Thomas I. Emerson, Yale University Law School; Prof. Winston M. Fisk, Claremont Men's College; Prof. John L. FitzGerald, Southern Methodist University School of Law; Prof. Marvin E. Frankel, Columbia University School; Prof. Walter Gellhorn, Columbia University School of Law; Prof. Ralph F. Fuchs, Indiana University Law School; Dean Leo A. Huard, University of Santa Clara Law School; Prof. Louis L. Jaffe, Harvard Law

School; Prof. James Kirby, Vanderbilt University Law School; Dean Robert Kramer, George Washington University Law School; Prof. Carl McFarland, University of Virginia Law School; Associate Dean Robert B. McKay, New York University Law School; Prof. Nathaniel L. Nathanson, Northwestern University Law School; and Prof. Frank C. Newman, University of California Law School. Prof. Crampton subsequently was appointed Chairman of the permanent Administrative Conference of the United States in 1971, and 1972, nominated and confirmed as Assistant Attorney General, Office of Legal Counsel.

[18] Interstate Commerce Commission, Letter to Senate Judiciary Committee, May 12, 1965.

[19] *Supra*, page 15.

[20] Hearings on S. 518, Subcommittee on Administrative Practice and Procedure, Committee on Judiciary, U.S. Senate, May 3, 1967, p. 323.

[21] In view of its importance as a unique expression of other points of view, that transcript is reproduced as the sixth document in this volume.

[22] Hearings on S. 518, *supra*, page 1.

[23] *Supra*, page 21.

[24] *Supra*, pages 21–22.

[25] *Supra*, page 351.

[26] *See*, the Department of Justice proposal, Hearings, S. 518, *supra*.

[27] Attorney General's Manual, p. 6.

[28] The other American Bar Association provision that prompt notice shall be given of adverse action on review, accompanied by a statement of written reasons, is already basically required by section 555(e) of the Administrative Procedure Act.

ORDER OF BUSINESS—INTRODUCTION OF BILL

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

(NOTE.—The remarks Senator BELLMON made at this point on the introduction of S. 1162, the National Energy Resource Development Act, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

UNITED STATES-CUBAN RELATIONS: A TIME TO CONSIDER ALL THE FACTORS

Mr. ROBERT C. BYRD. Mr. President, the United States-Cuba antihijacking agreement, successfully concluded on February 15, adds to the significant developments which are shaping U.S. foreign policy in a new international system, marked by cooperation and general relaxation of international tensions. President Nixon's initiatives in refocusing U.S. relations with the People's Republic of China and the Soviet Union already have produced major changes in the international community. The end of the bitter experience in Vietnam, with the return of the prisoners of war, encourages all Americans to look forward to a world of peace and friendship, to reach out for the true peace which has been so elusive.

The antihijacking agreement with Cuba fits very well into this ambience of detente between the United States and its former protagonists; and there are many who feel that the time is ripe for U.S. recognition of Cuba for this reason. The advocates of a new U.S. policy toward Cuba feel that the Nixon administration is excluding Cuba from the politics of detente. They feel that if talks can begin with China, a nation which we fought on the battlefields of Korea not too long ago, and Russia, our traditional rival and foe, then we can begin to talk to the Cubans, close neighbors with whom mutual enmity developed over a relatively short span of years.

There are others, among them administration officials, who argue that the Cuban situation is different than that involving China and the Soviet Union and that no parallels can be drawn. Official U.S. policy toward Cuba—which amounts to isolation of that nation—is based on Cuba's policy of export of revolution in Latin America and the Soviet military presence in Cuba. In addition to these two factors, the administration contends that changes in Cuban attitude and policies will have to be made before relations can be normalized.

I want to explore the situation governing our relations with Cuba today in an attempt to assess just where we are and to vocalize some questions that I have been considering regarding this issue. I realize that the United States-Cuban situation has changed markedly since the deterioration of relations resulted in the severing of diplomatic and economic ties on January 3, 1961. The circumstances which pulled our governments apart are quite different from those we face today. On the other hand, I know that there are very real issues to be settled prior to a normalization of relations and some very real problems created by the reaching of a settlement with Cuba.

The antihijacking agreement was the culmination of indirect U.S.-Cuban talks which began in November 1969. According to Deputy Assistant Secretary of State for Inter-American Affairs Robert Hurwitch, in testimony before the Subcommittee on Inter-American Affairs of the House Committee on Foreign Affairs, February 20, 1973, the talks lagged until the fall of 1972 when two bloody and bizarre hijackings shocked the parties into earnest activity. The Cuban Government took the initiative after the last hijacking involving Southern Airways and expressed the desire to conclude an agreement with the United States. Under the "Agreement of Understanding" both countries will either extradite or impose stiff penalties on hijackers of planes or ships. This agreement should put an end to the hijacking syndrome which has placed in jeopardy the lives of innocent passengers over the past years. Hopefully potential hijackers will now understand that they will find no haven in Havana. In all fairness to the Cuban Government, Havana has not been a comfortable refuge for hijackers. The Cubans have dealt harshly with hijackers, even with those who sought refuge in Cuba for political reasons. We all recognize this as a positive step by the Cuban Government and in recent years there have been other signs that the Cubans desire a different type of relationship with the United States and the rest of the nations of the Western Hemisphere.

The export of revolution policy, which at one time was synonymous with the Cuban Revolution, is no longer the rallying point for the Castro government. The vigorous implementation of this policy, which was reeling from setbacks in the mid-1960's, finally diminished with the death and defeat of Che Guevara in the mountains of Bolivia in 1967. Fidel Castro has not necessarily forsaken the principle of armed revolution but it is clearly recognized that the level of Cuban-supported armed revolution in Latin America is relatively low. In testimony before the Subcommittee on Inter-American Affairs of the House Committee on Foreign Affairs, in September 1972, Major General Richard Stewart, Deputy Director for Intelligence of the Defense Intelligence Agency—DIA—agreed that the level of Cuban-supported insurgency in Latin America is small.

There have been other signs that Cuba desires to improve relations with its neighbors. In May 1970, Fidel Castro said he would establish diplomatic relations with any country willing to do business with Cuba. The Cuban Government's earthquake relief effort in Peru in 1970 was extraordinary. Castro invited the U.S. volleyball team to play in Cuba in September 1971 and in October he permitted the Cuban baseball team to go to Puerto Rico. This marked the first time since Castro came to power that an official Cuban team accepted an offer to take part in international competition on U.S. territory. Cuba wants to be accepted as a legitimate member of the world community and in November 1971 was admitted to membership in the "Group of 77," the organization of developing nations within UNCTAD.

In addition, there have been some indications that the Castro government is moderating its stand toward the United States. The Washington Post in November 1971 reported that Cuban Foreign Ministry officials modified their position on the Guantanamo naval base when they said that the United States would have to declare a "willingness to negotiate." This is a significant change from the previous demand that the United States give up Guantanamo outright. More recently, the Washington Star reported that a respected Latin American diplomat at the U.N. has personally been assured by Cuban leaders that the Guantanamo base would not be an issue. Moreover, although Castro's rhetoric is still somewhat inflammatory and vile, the content of his speeches on the United States is much less vindictive than in previous years.

Many Latin American nations have recognized change on the part of the Cuban Government and have adjusted their policies accordingly. This represents a significant modification of the policy of isolation followed by the nations of the OAS since the decisions of 1962 and 1964 when Cuba was excluded from participation in the Inter-American system and member states collectively severed diplomatic and economic relations with Fidel Castro's government. Now recognizing Cuba, along with Mexico which never severed relations, are Chile, Peru, Jamaica, Barbados, Guyana, and Trinidad, and Tobago. Ecuador and

Panama are strongly leaning in favor of recognition, and Argentina and Venezuela, the nation that brought on the 1964 sanctions against Cuba, are considering unilateral moves.

In May 1972, many nations heretofore against considering any question on Cuba before the OAS, voted in favor of discussing a Peruvian resolution which allowed each nation to determine its own policy toward Cuba. Although the resolution itself was defeated, the decision to discuss the Cuban issue was significant, since no discussions had taken place in 8 years.

The Soviet presence in Cuba, both military and economic is a major obstacle to normal relations. DIA estimates that about 3,000 Soviet Military personnel are in Cuba, a level which has remained constant for the past three years, and Soviet military assistance to Cuba is estimated to be over $1.5 billion. According to Major General Stewart, the Cubans do not pose a military threat to the United States. Nevertheless, it is disconcerting to know that the Russian military, with sophisticated weaponry and a naval facility capable of servicing nuclear submarines is situated at the soft underbelly of the United States.

Economically, the Soviet Union is pouring up to $2 million per day into Cuba. Fifty-five percent of Russian foreign aid goes to Cuba. In the past several years, the Soviets have gained increased control over the Cuban economy. At the beginning of this year, Fidel Castro announced that the Soviet Union had agreed to refinance Cuba's debt, estimated by some western observers to be at about $4 billion, excluding arms deliveries. In five separate agreements signed by Fidel Castro during his visit to Moscow in December 1972, the terms of payment of Cuba's foreign debt were extended for 25 years, and Russia agreed to grant an additional $390 million in credit for the development of the economy.

There are other problems which must be considered in any discussion of the state of our relations with Cuba, one of which is sugar. The Cuban portion of the sugar quota is now distributed among the sugar producing countries. If and when the United States resumes relations with Cuba, the countries will have to make large and difficult adjustments when that portion of the quota is taken from them and reallocated to Cuba. However, section 201(e) of the Sugar Act gives the President discretionary powers to "phase in" the reallocation over a 3-year period, thereby giving these countries time to make the necessary adjustments in their economy.

The compensation question is one that must be settled. Although the losses of the major U.S. corporations have been satisfied through tax write-offs, the U.S. Government still must negotiate repayment amounting to about $1.8 billion in claims by close to 7,000 U.S. citizens. However, the failure of the Soviet Union to pay World War I debts and the failure, until recently, to settle lend-lease accounts, proved irritants to normal economic intercourse with the United States but did not prevent the two nations from maintaining and furthering relations.

Another problem is posed by the Communist system in Cuba which has been cited by the OAS Human Rights Commission for violation of human rights, especially those of political prisoners. Antigovernment activity and dissent are severely repressed.

At this point, my esteemed colleagues, I want to rhetorically express what I feel is our dilemma in considering this important question. The arguments on both sides of this issue are convincing, but at this particular point in time in the 1970's, should we not be guided by what I would call enlightened self-interest? At what point is a harsh, hard-line policy toward Cuba no longer a viable one, or perhaps even a counterproductive one? Are the obstacles as seen by the administration and as posed by the Castro government too great to be overcome? Is the export of revolution policy that much a threat in Latin America today? Is the Soviet military and economic presence in Cuba permanent or might it not be subject to change, say for example, through three-way negotiation between the United States, Cuba, and the Soviet Union? Is it not within our self-interest to see the Soviet influence in Cuba neutralized, or at least diminished? Is not the compensation issue one for negotiation if the nations would just agree to sit down and talk? Are we not in danger of being isolated in the Western Hemisphere as more and more Latin American countries unilaterally resume relations with Cuba in violation of what they consider an antiquated OAS policy? Is it not within our self-interest to consider our relationship with the rest of Latin America as one of unity and community which has evolved over a period of over 150 years?

We do not like the Cuban Government's treatment of political prisoners, but is it not true that we also do not like the harsh treatment of dissidents in the Soviet Union? It is not within our self-interest, especially in light of our deteriorating international trade situation, to conduct commerce with Cuba—which now is carried out vigorously by Canada, Great Britain, and Japan, among others—in commodities which the United States, under normal circumstances, would be the primary supplier?

These are some of the issues and questions over which I have pondered this past year but which have surfaced even more in view of the antihijacking agreement. We need full and open discussions among all interested parties. We need a thorough review of our policy toward Cuba.

ORDER FOR RECOGNITION OF SENATOR BARTLETT ON WEDNESDAY, MARCH 14, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, after the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Oklahoma (Mr. BARTLETT) be recognized for not to exceed 15 minutes.

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

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

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 15 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 second assistant legislative clerk proceeded to call the roll.

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

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

(NOTE.—The remarks Mr. Moss made at this point on the introduction of S. 1165, the Little Cigar Act, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

HARNESSING TAX RATES FOR PUBLIC POLICY OBJECTIVES

Mr. MOSS. Mr. President, medical research has made it increasingly clear that the risk of disease increases with the amount of tar and nicotine a smoker inhales. The most recent, authoritative report of the Public Health Service confirms this relationship.

A tax on cigarettes high in tar and nicotine would be an effective means of lowering tar and nicotine levels. And a tar and nicotine tax would be an effective and reliable revenue-raising measure. These are the reasons why I introduced such a bill, the Cigarette Tar Tax Act, on January 18, 1973. Five years ago the late Senator from New York, Mr. Kennedy, and the Senator from West Virginia (Mr. RANDOLPH), introduced similar legislation.

The amount of tar and nicotine in the average cigarette can be cut significantly, and thus reduce the devastating public health toll. Technology is no barrier. Neither is the consumer: when filter cigarettes were introduced in the 1950's consumers switched rapidly even though their average tar and nicotine consumption was more than cut in half.

Tar and nicotine levels continue to fall, but the incentive to smoke low tar and nicotine brands is currently based only on health considerations.

A tar and nicotine tax would give the cigarette industry and the smoker the incentive to go low tar and nicotine at even greater rates. Brands low in tar and nicotine will gain increasing market shares as they compete on the basis of both price and health considerations. Consumers would be given both an economic incentive and an unavoidable warning to switch to less dangerous brands.

The city of New York has had a tar and nicotine tax in force since July, 1971. It has been successful in both its revenue

and public health objectives. It has proved easy to administer.

Recently the Yale Law Journal published an insightful and careful analysis of this new approach to tobacco taxation, "The Tar and Nicotine Tax: Pursuing Public Health Through Tax Incentives"* by William Drayton, Jr., a consultant with McKinsey & Co. I ask unanious consent that this article be printed in the RECORD at the conclusion of my remarks.

When either the Congress or State and local legislators must raise additional revenue, they should consider doing so by raising the cigarette tax on high tar and nicotine cigarettes. Such legislation would effectively reduce public health costs as well as provide a new source of revenue. Mr. President, I ask unanimous consent that certain provisions of the Cigarette Tar and Tax Act and certain provisions of a model State tar and nicotine tax act prepared by the Lawyers' Committee on Tax Reform be printed in the RECORD.

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

THE TAR AND NICOTINE TAX: PURSUING PUBLIC HEALTH THROUGH TAX INCENTIVES *

(William Drayton, Jr.†)

Government's increasing efforts to discourage cigarette smoking over the last decade have generally failed.[1] Warnings about smoking, and tax increases which raise all cigarette prices, harry the habitual smoker but do not make him stop. In order to change smoking patterns, government must first modify its strategy. Rather than attempting to diminish total cigarette consumption, it should focus on the more attainable goal of reducing the harmfulness of what is smoked. Tobacco manufacturers could lower tar and nicotine levels greatly; smokers that can't quit can switch.

A special tax on cigarette brands high in tar and nicotine would be an effective means of executing this strategy. Such a tax would encourage the consumption of lower tar and nicotine brands by making them less expensive for the consumer and/or more profitable for the manufacturer. The tax can also be an efficient source of public revenues. New York City has had such a tax in effect since July 1, 1972 [2] its success in meeting both the city's public health and revenue objectives suggests that New York's lead may well be followed by other governments, local, state, and national.[3]

This article seeks to define and evaluate the tar and nicotine tax alternative. First, it explains why government must switch to a tar and nicotine tax strategy if it is to have a significant impact on smoking. Second, it evaluates the effectiveness of such a tax, both in theory, and in the light of New York's experience.[4] Finally, it explains the structure that would give the tax the greatest possible impact.

I. THE NEED FOR A NEW STRATEGY AGAINST SMOKING: TAXATION OF TAR AND NICOTINE CONTENT

The extensive research done on cigarettes during the last decade has convinced the medical profession and appropriate government agencies [5] that cigarette smoking is a major cause of disability and death. In the United States, over fifty medical associations have officially sought to discourage smoking.[6] In the United Kingdom, the Royal College of Physicians has announced that illnesses caused by smoking have reached "epidemic proportions" requiring a strong preventive response.[7]

Whether or not the state should intervene to limit the costs of smoking to the individual and society,[8] and to what degree, ultimately remain, of course, political issues that each community must decide.[9] However, it is clear that the trend of public policy is toward more vigorous and determined intervention. Traditional flat rate cigarette taxes, which have long been justified in part as a means of discouraging cigarette consumption, have now been imposed separately by over 272 communities, by all fifty states, and by the federal government.[10] During the last decade, their rates have risen rapidly. Moreover, government has supplemented flat rate taxation with a campaign of persuasion [11] and the prohibition of broadcast cigarette advertising.[12]

These methods have been generally ineffective.[13] The imposition of even very stiff flat-rate taxes seems to reduce sales only slightly and temporarily.[14] Even the high tax rate applied to cigarettes in England, over fifty percent more than United States' levels has failed to reduce total consumption significantly.[15] Despite the new prohibition on broadcast advertising, cigarette sales increased between 1.5 and 3.0 per cent during 1971.[16] The combined impact of these traditional means of discouraging smoking has not been great: The average per capita consumption of cigarettes in 1971 was only sixteen cigarettes less than in 1961—a reduction of less than seven-tenths of one per cent.[17]

The health impact of this seven-tenths of one per cent reduction has, moreover, been cancelled by an increase in the amount of tar and nicotine delivered by the average cigarette.[18] The amount of tar and nicotine consumed increases with the length of the cigarette, and cigarettes have been getting longer: The one-hundred millimeter cigarettes, which had captured eighteen per cent of the national market by 1970, are gaining ground year by year.[19] Further, some manufacturers have recently marketed brands with filters which are likely to make the consumer feel relatively safe, but which are supposed to give greater "satisfaction" by using unusually high tar and nicotine levels.[20]

Thus, despite the government's efforts, the health situation has not improved. This is because the government's interventions have all shared the common, unrealistic goal of reducing total cigarette consumption. Legislators and public officials must learn from these past experiences: Most smokers cannot or will not quit.

Given a realistic recognition that aggregate demand for cigarettes is highly inelastic, governments seeking to minimize the harm done by smoking should consider adopting the tried strategy of the old British Empire: Divide and Rule. Government intervention designed to reduce the danger of cigarettes by discouraging the production and sale of the most harmful brands should succeed where intervention designed to cut total sales has failed. The divide and rule strategy would then be to direct consumption away from particular brands, rather than away from cigarettes generally. The impact of such a plan depends on government's ability to isolate the harmful elements in cigarettes, the manufacturers' technical ability to reduce those elements significantly, and the legislature's selection of an effective mechanism for implementing the strategy.

The cigarette components that government intervention should focus on are tar and nicotine. Medical research now accepted as the basis of government policy indicates that they cause most of the damage done by cigarette smoke,[21] that the danger of smoking is roughly proportional to the amount of tar and nicotine ingested [22] and that tar and nicotine levels vary widely from brand to brand.[23] There are, of course, other harmful substances in cigarette smoke, notably carbon monoxide,[24] but tying tax liability to any of them would create serious administrative problems. Determining proper standards would be difficult, given existing research knowledge; collection and enforcement would be burdened with complicated testing requirements, since at present the Federal Trade Commission regularly measures only tar and nicotine levels.[25] In any case, reducing tar levels will diminish most of these other substances as well.[26] Smokers will not negate the health advantages gained from lower levels of tar and nicotine by smoking more cigarettes, or smoking the same number more deeply.[27]

Moreover, the cigarette industry is in a position to reduce tar and nicotine levels significantly and quickly through a variety of techniques. Manufacturers could use more high quality tobaccos, which are more expensive but have lower tar and nicotine contents. With minimal expense, they could employ more highly porous paper and tobacco cuts designed for more complete burning, nitrate additives to reduce carcinogenic polynuclear aromatic hydrocarbon portion of tar, shredded reconstituted tobacco sheet, and a greater proportion of low-tar stems. They could utilize more effective filters,[28] and by freeze-drying the tobacco, they could reduce tar and nicotine levels by more than half.[29] In sum, the presence of low tar and nicotine brands already on the market indicates that no significant technical or economic barriers to safer cigarettes exist.

Having isolated tar and nicotine content as the best target for a divide and rule strategy, the need for an effective mechanism to implement the strategy remains. There are two possibilities: taxation and/or selective prohibition of the most dangerous brands.[30]

Unlike prohibition, taxation works at the margin: The new smoker is much less likely to pay premium prices or go to the inconvenience of obtaining bootlegged brands than a committed smoker with a firm belief that his brand fits his personality and "taste." Both measures are likely to be effective because the course of action they ask cigarette consumers and manufacturers to follow—switching to low tar and nicotine cigarettes—is a very much easier more acceptable path than that of giving up cigarettes entirely. Its acceptability is further enhanced because the firms that do switch are rewarded with a larger share of the market. Their total profits would also be greater, assuming the effect of larger sales volume outweighed the costs of measures necessary to reduce tar and nicotine levels. Both measures would aid those most in need: the smoker unable to stop and the millions who start smoking each year regardless of health admonitions. However, taxation is much the more likely immediate approach as it is a less drastic intervention that will raise revenue as well as serve the government's public health objectives, and can be applied to most cigarettes without creating the potential smuggling problems of selective prohibition.[31]

II. AN EVALUATION OF THE TAR AND NICOTINE TAX

A tar and nicotine tax should be analyzed in terms of five criteria; its efficiency as a form of intervention, its effectiveness as a public health measure, its value as a revenue source, its ease of administration, and its equity.

A. The tar and nicotine tax as an incentive tax

A tar and nicotine tax is a simple example of an incentive tax—a tax designed in part to alter pre-existing market conditions, usually by discouraging one type of purchase or course of action as against competing alternatives. A familiar example is the use of tariffs to discourage foreign imports. Since every tax causes some change, and since the relevant interest groups and therefore the

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legislatures are usually very much aware of such effects, every tax can, strictly speaking, be said to have some incentive effects. It is the degree of the intended effect of the tax in inducing such change that indicates how much of an incentive tax it is. However, most taxes, including the sumptuary excise taxes on tobacco and alcohol,[32] are passed for, and in fact primarily serve, other purposes.[33]

Incentive taxes are a powerful and efficient regulatory tool which government can be expected to use increasingly.[34] They are likely to be effective primarily because they exploit potent competitive market forces. A well-designed incentive tax changes the profitability and market position of any one manufacturer relative to his competitors. A cigarette manufacturer who lags behind in shifting to low tar and nicotine brands and is therefore subject to taxes which absorb a substantial portion of his normal per pack profit margin, will feel an unmistakable, sharp pressure to bring his products beneath the tax's cut-off points. In a competitive situation his only alternative to paying his profits over to the public treasury will be to lose a part of his market share. Thus, the tar and nicotine tax magnifies the power of its impact by pitting the high tar brands against all others.[35] Moreover, because government has a vital interest in tax revenues, the use of taxes as a means of public policy intervention leaves much less chance that the intervention will not be enforced than is often the case with other forms of regulation.

Not only can an incentive tax work, it is likely to do so quite efficiently. Its primary enforcer is the market mechanism, not a clumsy and costly bureaucracy. Government merely creates the incentive; the decision of whether or not the advantages of meeting the incentive standards justify the cost of change remain with those most familiar with the facts and most interested in making a correct decision—the affected producers and consumers. In other words, government does what it is best suited to do, determine public policy and priorities, leaving producers and consumers free to make specific production and consumption decisions. If they do not respond as the legislature intended, government can easily and quickly change the direction and/or the degree of pressure behind each incentive.

Incentive taxes not only work through, but may actually improve, the functioning of the market.[36] If a government is seeking to force some change, such as lowering the tar and nicotine content of cigarettes, it probably feels the change is justified by societal costs, whether or not the costs can be accurately measured. An incentive tax is thus a rough user charge, a price representing the costs of an unsatisfactory condition.[37] Adding such charges to the economic calculations of producers and consumers will force them to recognize more fully the true costs and benefits of their decisions.

Though neither government regulation nor taxation is now considered dangerously unorthodox, incentive taxation sometimes is. Often this fear is due to a misapplication of the concept of tax "neutrality," the view that a "good" tax, while raising revenue, does not disrupt existing, presumably optimal, competitive relationships. Incentive taxes are in this sense clearly not neutral. However, their intentional effort to alter the status quo may well constitute a refinement, not a disruption, of the market. Moreover, as controlled "disruption" is the *raison d'etre* of an incentive tax, such a tax should be measured against the traditional test of neutrality only to see whether it creates any *unintended* market change.

B. The tar and nicotine tax as a public health measure

That incentive taxes are a generally effective form of public intervention does not guarantee, of course, the effectiveness of the tar and nicotine tax specifically. However, an analysis of market economics suggests that the tax will succeed in diminishing tar and nicotine consumption. Cigarette manufacturers, distributors, and retailers could respond to a tar and nicotine tax in three ways: (1) they could pass on all or part of the tax on high tar and nicotine brands to the customer through higher prices; (2) they could absorb the taxes; or (3) they could increase prices of all brands and thus distribute the cost of the tax to smokers of all brands. In all probability the industry will respond, as it did in New York, in a combination of all three ways. State and local taxes have to be collected from numerous local vendors, each of whom will decide which response best suits his circumstances. Even a federal tax collected from the manufacturer would still leave these dealers free to choose whether and in what manner to pass on increased prices from the manufacturers.[38]

To the extent that the tax is borne by the consumer, with high tar and nicotine brands clearly identified by a higher price, both consumers and manufacturers should be pushed toward lower tar and nicotine brands. Consumers are apt to wonder about paying higher prices for products thereby labelled as more dangerous, and each purchase should make them wonder and worry anew. Manufacturers with low tar and nicotine brands will gain market share as consumer preference shifts as a result of this concern. New product introduction and promotional efforts[39] aimed at this growing part of the market[40] will encourage even more consumer switching.[41] Thus, a benign cycle of consumers and vendors reinforcing each other's moves towards low tar and nicotine cigarettes should result.

The industry's second possible response is to keep prices, and the price relationship between different brands, unchanged by absorbing the tax.[42] There is a point at which this option becomes economically impossible—and the industry's willingness to absorb will undoubtedly stop long before this point, except perhaps as a short-term tactic designed to discredit the tax.[43] Given typical margins, the manufacturers cannot absorb more than four cents a pack without losing all profit on the brand taxed.[44] Absorption is more likely when the tax is small and consequently less costly than the inconvenience of collecting it. Thus, all but the smallest tar and nicotine taxes are not likely to be fully absorbed, except possibly as a temporary measure.

The industry's third option, increasing prices across the board, is a more likely response. Because the habitual smoker's demand is highly inelastic, tobacco distributors and retailers can raise prices generally, disregarding varying tax rates, without losing significant sales volume. They are somewhat limited in so doing, however, by their competition with one another and their fear of smuggling. Because this response affects the tax's incentives in approximately the same manner as the second response, absorption, they can be discussed together.

Even if the retail prices do not fully reflect the tax's differing treatment of various brands because of industry absorption or general price increases, the same benign cycle of vendor/consumer shifts towards low tar and nicotine cigarettes should occur just as if the differences were passed on to the consumer. Although the tax's direct impact on the consumer would be reduced, it will be increased vis-a-vis the industry. If the tax on a high tar and nicotine brand is absorbed, the profitability of that brand will suffer proportionately. Even if prices are raised across the board, losses on high tar and nicotine brands will be supported by the untaxed, low tar brands. In either case, the manufacturers and vendors would be given a most compelling reason to switch as quickly as possible into the more profitable, safer cigarettes. They could do so by developing new low tar brands, downgrading existing ones, and giving greater sales emphasis to their safer, more profitable untaxed brands. These efforts will in turn affect the smoking consumer.

This second, industry-led phase of the switching cycle will, however, be more difficult to start than the first for all but a federal tax. A single local or state tax is unlikely to affect enough of the market to force the manufacturers to change their marketing plans. However, a series of such taxes, either because of their cumulative effect or their trend-setting nature, should have sufficient impact to set the cycle in motion.[45]

But even in the short-run and without a major impact on the national market, absorption and across-the-board price increases will not necessarily enable established high tar and nicotine brands to maintain their market share—the measure of success in the industry—in a community with a tar and nicotine tax. A local government anxious to ensure maximum local consumer switching may employ a number of methods to ensure that the tax's warning and incentive are not obscured: increasing the tax's differentials, regulating prices, and/or generating publicity. Raising the tax differentials significantly, by far the most effective response, would encourage competition and reduce the number of cases in which it is less expensive to absorb the tax than to pass it on. Second, government could require that retail prices mirror distinctions made by the tax. A form of such price regulation is now in effect in many states for alcoholic beverages, another sumptuary item. The New York tar and nicotine ordinance tax specifically allows the city's Director of Finance to impose such controls.[46] Lastly, government could itself publicize or require retailers to publicize the differing tax rates for each brand.[47] Government could foster such awareness, for example, by causing different-colored tax stamps to be applied to each pack depending on the rate paid. Such actions would increase consumer awareness of price (and health) differences among brands and would be consistent with the public health purpose of the tax.

Industry experience suggests that consumers will respond to such warnings and incentives, if they are also given an alternative that does not require them to stop smoking. In the 1930's, smokers demonstrated that price does make a difference: The major national brands lost fifteen per cent of their sales to "economy brands" with lower prices but relatively little advertising.[48] In the 1950's and early 1960's, smokers dramatically demonstrated that they will switch to safer cigarettes: Sales of non-filter cigarettes were halved between 1956 and 1967.[49] The fact that cigarette consumers have previously demonstrated considerable sensitivity to price and some awareness of the health hazard[50] certainly suggests that they will respond to the tar and nicotine tax's use of both factors together.

New York's experience seems to support this expectation. An analysis of the tax receipts from the city's two cigarette taxes, the old four-cents-a-pack, flat-rate tax and the new tar and nicotine tax, suggests that there may have been a shift from taxed to exempt brands of approximately twelve to thirteen per cent of all cigarettes sold in the city.[51] This estimate is especially encouraging as New York is a rather difficult test case: Even before the incentive tax was imposed the city had one of the highest per pack cigarette taxes in the country and consequently a major smuggling problem.[52] While this means that the incentive differentials had to be greater than elsewhere to have the same impact on the city's inflated prices, the fear of encouraging even more smuggling led officials to impose small differentials of three and four cents. Although each retailer is required to post the amount each brand is taxed and why, most retail

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prices in the city do not reflect the tax's low rates.[53]

The twelve to thirteen per cent estimate of consumer switching could be wrong for three reasons.

First, it is possible that the pretax distribution of brands sold in New York was different from the national mix used in calculating the shift. If New York consumers were already purchasing more low tar and nicotine brands than the national average, the shift estimate would be too high. Unfortunately there is almost no evidence available on this point.

Second, if the period of analysis coincided with a national trend away from high tar and nicotine brands, the twelve to thirteen per cent figure would also be overstating the impact of the tax. However, this was almost certainly not the case. The average tar and nicotine per cigarette consumed nationally during the period did not decrease, it increased.[54] Thus, unless New York consumption was shifting against national trends for reasons other than the tax, the estimate seems to err on the side of being conservative, if it errs at all.

Third. New York's significant level of smuggling, about thirteen per cent of all cigarette sales in the city,[55] may distort the calculations.[56] Smugglers may prefer to sell high tar and nicotine brands because of the greater taxed-untaxed differential. If they were able to manipulate their market, this would create an exaggerated impression of shifting to untaxed brands in measurements based only on cigarettes actually taxed. But this danger seems limited. There was only about a two per cent increase in the volume of both smuggling and avoidance attributable to the tax over its first ten months.[57] Moreover, the smugglers probably have to supply whatever brands their customers demand.[58] Finally the smugglers' response to the tax actually seems quite different; they are reported to be charging higher prices for brands subject to the tax.[59] Thus, the impact of the tax's incentives seems not to be lost even on those who do not legally pay it.

While the twelve to thirteen per cent estimate may require some modifications, the revenue figures do suggest that the tar and nicotine tax has had at least some of the public health impact intended.

C. The tar and nicotine tax as a source of revenue

For those who envision the tar and nicotine incentive tax solely as a revenue raiser as well as a regulatory measure, a potential objection to the tax is that it might not be dependable or sustained as a source of funds. Public officials may be unnerved because revenue will decline to the extent the tax actually lowers tar and nicotine consumption. They should not be: The amount of revenue to be expected from the tax can be predicted [60] and adjusted quite easily.

Exact predictions are, of course, impossible because the responses of the tobacco industry and its customers to a unique, new stimulus are unknown. Predicting state or local revenue is even more uncertain because of smuggling and the differing sizes of the jurisdictions. But these uncertainties are largely a function of the tax's novelty: Switching by consumers in response to the tax will probably be concentrated in its first year or so. Thereafter, revenue should hold relatively constant, and reliable future estimates can be made from this initial experience. Even now, with only New York's limited experience available, revenue calculations made from relatively extreme assumptions establish a narrow range of likely results for a national tax. The following table shows the probable revenue that would be generated in the first year of a national tar and nicotine tax of four different rates: [61]

ESTIMATED REVENUE FROM A NATIONAL TAR AND NICOTINE TAX

[In millions of dollars]

Per pack tax	National revenue			Medium revenue per million population
	Low	Medium	High	
0,2, 3 cents	606	639	672	3.2
0,3, 4 cents	778	839	901	4.2
0,5, 6 cents	1,116	1,239	1,352	6.2
0,9,10 cents	1,691	1,978	2,205	9.9

Estimates of the revenue a local community could expect from the tax can be roughly calculated as a proportional share of the national estimates equal to its per cent of the national population. This initial calculation should be refined by accounting for smuggling and avoidance likely to be associated with the particular locality.[62] Areas with relatively low retail prices will generally gain sales and tax revenue from high price areas with the size of the increase depending on the size of the price differential and the distance from the other jurisdictions.[63] There may also be minor variations in revenue due to varying smoking habits.

However, even if the tax produces less revenue than expected, its rates can always be increased. Thus, even a local government with an acute smuggling problem can assure itself of the revenue it needs. In New York, which probably has the worst smuggling problem in the country, adding a penny a pack to the rate, a twenty-five per cent increase, probably would not have increased smuggling and avoidance significantly: When new cigarette taxes totalling seven cents a pack were imposed in 1971–72, such losses increased only about four per cent.[64]

In sum, a tar and nicotine tax should provide a significant and reliable source of new revenue, as well as an important means of cutting public health costs.

D. The administration of a tar and nicotine tax

Compared to most taxes, let alone direct controls, a tar and nicotine tax is easy and inexpensive to collect. All cigarettes sold in the country are now subject to state as well as federal flat-rate excise taxes. Consequently, any new or increased cigarette taxes can "piggyback" on existing collection mechanisms.[65] The usual procedure is for each pack sold to be stamped by a licensed tax agent who is thereby responsible for collecting the tax and who is paid a small percentage of collections for his services. A tar and nicotine tax can be collected by these agents in the same way as the present flat-rate taxes.

A tar and nicotine tax would require the agents to take one additional simple step. Before stamping each pack in a crate, they would have to determine the appropriate tax by checking the brand on a one-page card issued by the Federal Trade Commission, listing each brand and type of cigarette by tar and nicotine content.[66] Of course, when the periodic FTC tests indicate a change in a cigarette's tar and/or nicotine content, tax liability would also change.

A tar and nicotine tax would, however, create serious problems for vending machine companies.[67] Although modern vending equipment can handle four prices, most older machines can deal with only two or three,[68] and some of the oldest can sell at only one.[69] A tar and nicotine tax with its different rates would force many owners to choose between absorbing the tax on some cigarettes or charging more for all.[70] Even those who could adjust their machines to charge several different rates would face extra conversion, clerical and service costs. Further, because the machines record only the total number of packs sold and because the operating companies have not usually maintained inventory control by brand, some service men might possibly report more low-priced sales than actually occurred and pocket the difference.[71] Moreover, if the price differences were not in nickel or dime increments, none of the machines could account exactly for the tax. Periodic readjustments in the tax liability of various brands, required in response to new FTC tar and nicotine ratings, would create a further small,[72] but periodic, cost to vending machine operators. The vending machine industry's difficulties would be substantially increased if it were legally required to charge prices reflecting a tar and nicotine tax's different rates. Many of the old machines belonging to small businessmen and clubs could not comply and would have to be put out of operation unless they were exempted from the requirement. However, governments anxious to have retail prices reflect differences in the tax rates but wishing to avoid placing these extra burdens on vending machine operators, could exempt them from the regulation requiring retail prices to reflect the tax's differentials while still insisting that they post a notice on each machine informing the public how much tax was levied on each brand on sale in the machine. Alternatively, they could levy an extra tax on those choosing not to conform with the requirement.

Cigarette bootlegging is a serious problem for local and state governments with relatively high tobacco taxes.[73] Obviously, extensive smuggling created by a wide range of price differentials between jurisdictions is highly undesirable: It deprives both the government and legitimate dealers of needed revenues; it creates a strong incentive for businessmen and enforcement officials to share in the large profits available from smuggling; and it provides a major source of income for organized crime.[74] The possibility of smuggling is thus a strong argument against high tax localities increasing their rates still further.

However, this argument has definite limits. The fear of smuggling need not inhibit either the federal government or local governments with relatively low tobacco taxes from increasing the taxes on cigarettes. Furthermore, significant differentials can be created without raising the average price if existing cigarette taxes on low tar brands are reduced, a move which need not produce a net revenue loss if the tax on high brands were simultaneously increased.

Nevertheless, smuggling remains a significant constraint for some communities. Under a tar and nicotine tax, the amount of smuggling (and switching) should increase with the proportion of all cigarette brands taxed at the higher rate, as well as with the size of the incremental tax. As more brands with reduced tar and nicotine levels and a lower tax liability become available, the incentive to smuggle will be more than proportionately reduced.[75]

An additional problem, especially for smaller local governments, is tax avoidance through extra-jurisdictional purchases. Like smuggling, the effect of this avoidance will depend upon the rate of the tax relative to the taxes of the surrounding areas and the distance which local citizens must travel for lower taxed brands. Instead of going to the trouble of buying high tar cigarettes in another jurisdiction, at least some consumers, especially new ones, will probably switch to a safer, cheaper brand.[76]

In high-tax jurisdiction existing revenue losses from smuggling [77] and other forms of cigarette tax evasion might be reduced with a stronger law enforcement effort. In New York, for example, the current level of enforcement is clearly inadequate. The city's Cigarette Tax Enforcement Unit operates on an unvaring nine-to-five, no-weekend work schedule, a fact presumably well known to the smugglers.[78] The increased temptation to

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smuggle created by high-tax local governments increasing their taxes on cigarettes might well be offset by increased and more effective law enforcement.

E. The equity of a tar and nicotine tax

Any increase in cigarette taxes, regardless of form, will be somewhat regressive. Although the middle class and the wealthy spend more on tobacco than the poor, this expenditure is a smaller proportion of their income.[79] However, a tar and nicotine tax should be less regressive than a customary flat-rate tax: The poor consumer can escape the tax entirely by switching to low tar brands, and if the tax does force him to switch, the net result of health cost savings might even prove quite progressive.

In sum, a tar and nicotine tax gives a government an effective tool for inducing reduction in tar and nicotine levels, while providing a reliable source of revenue. Although a flat-rate tax poses fewer administrative problems, a tar and nicotine tax, which in any case uses the same collection mechanism as the flat-rate tax, is quite administrable. However, smuggling and extrajurisdictional purchases may lessen the effectiveness of a tar and nicotine tax, and the tax, like all excise taxes, may be somewhat regressive.

III. ENGINEERING AN EFFECTIVE TAX

Designing the most effective tar and nicotine tax involves four considerations: the limitation of the tax to cigarettes, the best milligram cutoff points for tar and nicotine liability, the optimal rate structure, and the level of government imposing the tax.

A. Taxing cigarettes only

Health and administrative reasons dictate that the tax be restricted to cigarettes. In terms of health, pipe- and cigar-smoking entail ingesting a very much smaller quantity of tar and nicotine. Thus, while cigarettes comprise roughly eighty per cent of all tobacco sales, they are the cause of ninety-six per cent of all tobacco related deaths.[80] Therefore medical authorities argue that cigars and pipes should be given relative encouragement.[81] But cigar and pipe smokers are substantially less likely to be regular smokers and are much more likely to switch both smoking mode and brand than cigarette smokers.[82] The cigar industry has consequently found it difficult to pass increased costs on to the consumer.[83] Thus, tax increases on cigars and pipe tobacco would undoubtedly have the opposite effect of accelerating their persistent long-term loss of tobacco market share.

Administratively, it is easier to tax only cigarettes because a new cigarette tax can be collected through mechanisms already established for collecting the current cigarette taxes, whereas taxes on other forms of tobacco would generally require new collection procedures. Moreover, Federal Trade Commission tests of cigarette tar and nicotine content would provide a dependable, generally accepted, and no-cost method of determining the liability of particular brands and types of cigarettes. To extend a tar and nicotine tax to cigars and pipe tobacco, however, government would have to develop and implement a measuring and testing system for a large number of low-volume tobacco products. Since relatively little research has been conducted on cigar and pipe smoking, determining appropriate standards would also be a problem.[84]

B. Delimiting tax liability

Since a small amount of tar or nicotine is not "safe," but only less harmful than a larger dosage, there are no clear, medically determined cutoff points for tax liability. Consequently, the points at which tax liability occur should be selected so as to produce the largest and most rapid reduction in both tar and nicotine levels. As manufacturers can reduce tar without altering nicotine content and vice versa,[85] a government seeking to diminish the consumption of both elements should base tax liability on both.

More than one cutoff point for one or both substances can exist, and government could create a wide range of corresponding tax rates. It would probably be desirable, for example, to offer an additional incentive for the small class of cigarettes with exceptionally low tar and nicotine levels.[86] However, New York's experience with its 0, 3, and 4 cent tax indicates that to achieve adequate impact at the retail level, each tax increment should ideally be at least a nickel; and this factor clearly limits the number of levels most governments will be able to impose.

The determination of the exact cutoff points for tar and nicotine involves an inevitable tradeoff. When the level of tar and nicotine subject to the tax is lowered, more smokers and brands are affected by the monetary incentive and more revenue is gained. On the other hand, when the level of taxable tar and nicotine is raised more brands are left untaxed, the consumer has a greater choice of brands to switch to, and the taxed manufacturer must confront a greater number of untaxed competitive brands. An additional crucial consideration is that assuming manufacturers believe that lowering a brand's tar and nicotine levels a great deal would undermine brand loyalty, the incentives for manufacturer change created by a variable tax would be greatest on brands just above the cutoff points.[87] From the standpoint of manufacturer incentive, the cutoff points should thus be just below the levels contained in a large number of cigarette brands. Presently, a group of over sixty per cent of all cigarettes exists within a narrow range just above 17.0 milligrams of tar per cigarette and 1.1 milligrams of nicotine per cigarette.[88]

More specifically, a tar cutoff point between 17 and 18 milligrams or 18 and 19 milligrams, and a nicotine cutoff point between 1.1 and 1.2 milligrams or 1.2 and 1.3 milligrams appears to maximize the tax's impact.[89] While any other point or combination of points is possible and may become desirable as tar and nicotine levels shift, 17.0 milligrams of tar and 1.1 milligrams of nicotine per cigarette seem to be the most effective cutoff points now. These cutoff points provide more revenue than a higher cutoff would; [90] they leave a larger number of cigarettes subject to the tax's incentives. Yet, whatever incentive impact they lose by leaving fewer brands tax-free for consumers to switch to they gain by having a larger number of cigarettes very close to the border thus enabling manufacturers to avoid the tax with relatively little effort. They are the cutoff points adopted by New York.

The tax rate could be increased if either or both of the two cutoff points is exceeded. Since tar and nicotine levels are usually closely related,[91] cigarettes with both tar and nicotine levels above the cutoff points are likely to contain more tar and more nicotine than cigarettes with one of the elements above and the other below the cutoff. Consequently, higher tax rates are appropriate when both cutoff points are exceeded. This reasoning suggests a three-tier system of incremental taxation with low or no tax increase for cigarettes with tar and nicotine content below both the cutoff points, and a sharp increase in tax liability if one cutoff point is exceeded, and another, smaller increment if both points are violated.

As switching takes place after the enactment of the tax, fewer and fewer cigarettes will be subject to the pull of the tax's incentives. Consequently governments should probably plan to review the cutoffs periodically to determine whether they should be lowered to ensure that the tax's effectiveness is maintained. Such periodic, gradual lowering of the cutoff would maintain the tax's incentive impact at a high level, allow the industry to cut tar and nicotine gradually without disrupting brand loyalties, and provide a relatively steady flow of revenue from the tax despite steadily receding tar and nicotine levels.

C. Determining the tax rates

The tax rates applied to different brands of cigarettes can be varied depending on their tar and nicotine content either by rearranging existing taxes or by simply increasing the rates applied to the high tar and nicotine brands. Given the importance of significant differences between the tax rates applied to cigarettes falling on different sides of the tar and nicotine cutoff points, government could ideally employ both means.

However, governments are much more likely simply to increase the rates applicable to high tar brands. How big should these additional levies be? The first problem is to determine the minimal selective increase in the tax necessary. If there are to be three different tax levels (0, 1, and 2 cents a pack), cigarettes above both cutoffs must be taxed at least two cents more than untaxed brands. In terms of the manufacturers' ability to absorb the tax, a two cent tax would approximately halve average profits, a powerful incentive. This estimate is based on the fact that while the historical profit margin is approximately two cents,[92] any tax absorbed would necessarily result in a federal tax savings of approximately one-half (48%). Thus, absorbing a four-cent-a-pack increase would theoretically wipe out all profit. However, even four cents may somewhat underestimate the tax necessary to insure against manufacturer absorption of the tax. Manufacturers could help cover losses on high tar brands with profits from other untaxed brands, although this is not likely to continue for long. It is somewhat more likely that losses in some local markets where a brand is subject to the tax could be covered by profits from the rest of the market, though this would not be possible if the tax were national and would become increasingly difficult as more and more governments enacted similar taxes. Moreover, to the extent that the high tar and nicotine tobaccos are generally the least costly, profit margins on cigarettes with cheaper tobacco may be higher than the industry average, thus allowing even more absorption. Finally, although wholesalers and retailers have no interest in protecting sales of one brand against another, they may help manufacturers absorb at least small tax differences, both as a matter of industry solidarity and, more importantly, as a means of keeping their record-keeping and sales process simple.

Another sort of minimum rate is determined by the inability of vending machines to handle differentials smaller than a nickel. Thus, differentials of at least five cents, preferably ten cents a pack are desirable to ensure that retail prices generally reflect the tax.

In contrast to the question of a minimum tax rate, it is not clear that there is a ceiling above which tax rates should not rise. The chief limiting factor for local and state jurisdictions is the fear of smuggling. This restraint applies especially to those localities that already have relatively high cigarette taxes. Thus, for example, New York City felt it would not impose new cigarette taxes much over four cents a pack.[93] Within the range established by these minimums and perceived maximum rates, governments will probably set rates primarily in light of their revenue needs and the importance they attribute to their public health objectives.

Thus the most promising combination of cutoffs and rates appears to be a three-tier system: The eighty per cent of all cigarettes with more than 17.0 milligrams of tar and 1.1 milligrams of nicotine would be taxed at the

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highest rate; the nine per cent that exceeed only one standard would be taxed at a slightly lower rate, and the eleven per cent below both cutoffs would not be taxed at all. The rate applied to double violators must be at least two cents and should be more than four or five cents a pack.

D. Level of government

While a tar and nicotine tax could be adopted by any level of government, New York's reluctance to raise its rates above three and four cents a pack for fear of additional smuggling suggests that the level of government does make a difference. In contrast to New York, the federal government could impose a national tar and nicotine tax with little or no concern for smuggling.[94]

Particular local conditions as well as the size of the jurisdiction must also be considered. Thus, for example, state and local governments with relatively low tobacco taxes should be able to impose stiff new tar and nicotine taxes without stimulating a flow of smuggled cigarettes into their jurisdictions. Moreover, new taxes in such areas should reduce local sales to smugglers. Increases in cigarette taxation in low-rate jurisdictions would also allow new cigarette imposts in high-tax areas without an increase in smuggling over present levels.

Another local condition that must be weighed in designing any new cigarette tax is the proportion of the population within the jurisdiction that commutes to or from other jurisdictions regularly. If it is a significant percentage, revenue calculations should be lowered to account for "avoidance," a tendency to buy more often in the nearby low tax areas. Avoidance is more likely to be a problem for New York, for example, than for other areas. However, if avoidance is already occurring, incremental losses may well be small as in New York.[95]

The imposition of a tar and nicotine tax by a local or state government will have a much lower incentive effect on national cigarette manufacturers than would a national tax, or even a number of local and state taxes. The New York tax, for example, applies to only 3.3 per cent of the taxed cigarette sales in the nation. Manufacturers may be reluctant to make major product or marketing changes in response to special tax problems encountered in only a small part of their market.

The leverage local taxes can have on national producers should not, however, be underestimated. Even New York's small 3.3 per cent of national sales amounts to 16.5 billion cigarettes a year, hardly an insignificant market. Further, the warning effect of a tax varying by tar and nicotine content may be extended beyond a local jurisdiction by commuters, tourists, other visitors, and possibly the news media. Moreover, the impact of local taxes on the cigarette industry will be magnified if and to the extent that it appears to the industry that the tar and nicotine tax is becoming a national trend.

Even if the national manufacturers succeed in appearing to ignore the first few local governments' tar and nicotine taxes,[96] these taxes will still give local cigarette customers an incentive to switch to safer brands, and any such switching will reduce the manufacturers' high tar and nicotine production. Because retail pricing decisions are made by a great number of local wholesalers and retailers, and because these dealers would have to pay the local taxes (at least initially) and then make the decision to absorb or pass the tax on, the manufacturers should find it difficult to orchestrate uniform pricing in the face of a differentiated tax. Moreover, local governments can choose from a wide range of steps, ranging from required notices to fixed prices, to ensure that local incentives are not lost.[97]

A national tar and nicotine tax could be collected from the manufacturers—unlike state and local taxes which can be collected only locally from wholesalers and retailers. A tax imposed on the manufacturer tends to pyramid, or grow as it is passed on through the chain of distribution. By contrast, a tax levied on one locality's merchants tends to be partially absorbed as some merchants try to avoid losing customers to neighboring communities by holding prices down. For both reasons a national tax would better serve the government's public health purposes, as it would create a bigger price advantage for safer brands. Moreover, a tax collected from a few manufacturers is slightly easier to enforce than one collected locally—though this burden should not be overemphasized as there is almost no incremental cost to "piggybacking" either a state or local tar and nicotine tax on current collection systems, which exist in all fifty states.[98]

Thus, the most desirable tar and nicotine tax would be a federal one. Its terms would not be constrained by smuggling and avoidance; it could not be ignored because it would affect the national market; and it could be easily collected directly from the manufacturers. However, the tax could still be effectively implemented by most states and local governments, especially those which are large, have relatively low existing taxes, and have a small percentage of commuters who travel to and from adjacent low tax areas.

CONCLUSION

Government can take a realistic step toward improving the public health by imposing a tar and nicotine tax. Recognizing the fact that most smokers are habitual and that it is therefore unrealistic to expect to reduce total consumption quickly, the tar and nicotine tax seeks to reduce the harmful elements in what is smoked. It divides high against low tar and nicotine brands and gains much of its effectiveness from the resulting competitive clash. It is a good source of revenue and poses few administrative problems. It should give government the power to force a change in smoking patterns.[99]

FOOTNOTES

* The opinions and analyses set forth in this article are the author's sole responsibility and should not be taken to express the viewpoint of the firm of McKisney & Company, Inc.

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[1] *See* p. 1490.

[2] Under the New York program, cigarettes with 17 milligrams of tar and 1.1 milligrams of nicotine or less are tax-free; those exceeding both standards are taxed at four cents a pack. Thus, according to the tar and nicotine measurements of the Federal Trade Commission in August, 1971, Winstons are taxed at four cents while lower tar and nicotine Dorals are not taxed at all. These rates were merely added to the city's existing four-cents-a-pack, general cigarette tax, in order not to lose revenue or reduce whatever deterrent effect the high flat-rate tax has. Tar and Nicotine Ordinance, Local Law 34, 5 NEW YORK CITY, N.Y. ADMIN. CODE § D46.80 (Supp. 1971).

Administratively the tar and nicotine tax simply "piggy-backs" the traditional flat-rate tax mechanism. Both are collected simultaneously at the wholesale level through the sale of required tax stamps, and policing one automatically enforces the other. The New York tax applies only to cigarettes, not cigars or manufactured tobacco. *Id.*

[3] The idea of varying cigarette taxes with the harmful components in cigarette smoke is a simple, almost obvious reform that has been proposed, apparently independently, several times prior to New York's consideration of the idea. On September 12, 1967, Senator Robert Kennedy proposed such a tax nationally. Letter from Dr. Daniel Horn, National Clearinghouse for Smoking and Health, U.S. Public Health Service, to Mayor John V. Lindsay, May 27, 1971, replying to a request from the Mayor for comments on the proposed New York tax. In December 1970, Representative John Busienger introduced a bill in the Massachusetts legislature that would authorize a master plan for taxation to include the study of relating the state cigarette tax to tar and nicotine content. Interviews with the Clerk of the Massachusetts House and Mr. Ronald F. Rosenblith, aide to Representative Busienger, February 1971. Recently at the federal level, Senator Frank Moss has introduced a bill that would establish a national tar and nicotine tax. N.Y. Times, Jan. 16, 1972, § 3 (Business and Finance), at F, col. 1. U.S. Surgeon General Jesse L. Steinfeld, in reporting that the Nixon Administration is considering a series of new initiatives to reduce the hazards of cigarette smoking, specifically suggested levying such a tax. The Wall Street J., Jan. 11, 1972, at 5, col. 2.

[4] Much of the data and analyses used in this article was originally undertaken by the author as part of the McKinsey & Company staff working for the Bureau of the Budget of the City of New York to analyze alternative means of increasing city tax revenues. The study initially weighed a wide range of alternative tobacco taxes. The author is indebted to the city for releasing this material for use in the preparation of this article, and to his colleagues at McKinsey, notably Gerald P. Hillman, for their help and critical comments.

[5] These authorities include the President's Commission on Heart Diseases, Cancer, and Stroke; the U.S. Surgeon General, and the U.S. Public Health Service.

The U.S. Federal Trade Commission has officially recommended to the Congress that the warning label now required on all cigarette packs be amended to read: "Warning: Cigarette smoking is dangerous to your health and may cause death from cancer, coronary heart disease, chronic bronchitis, pulmonary emphysema, and other diseases." FEDERAL TRADE COMM'N, ANNUAL REPORT: 1969 at 11 (1969). The Federal Communications Communications Commission has held that it is no longer a controversial issue "that cigarette smoking is a hazard to public health (*i.e.*, the main cause of lung cancer; the most important cause of chronic bronchitis or pulmonary emphysema, etc.)." 35 Fed. Reg. 18282, 19283 (1970). A compilation listing the various authorities alleging a relationship between the elements of tobacco smoke and disease, part of the original McKinsey study prepared for New York City, is also on file with the *Yale Law Journal*.

[6] A partial list includes: American Association for Cancer Research: American Association for Thoracic Surgergy; American Cancer Society; American College of Chest Physicians; American College Health Association; American College of Physicians; American Heart Association; American Medical Association; and the medical associations of California, New York, and Pennsylvania.

[7] "Premature deaths and disabling illnesses caused by cigarette smoking have now reached epidemic proportions and present the most challenging of all opportunities for preventive medicine in this country." ROYAL COLLEGE OF PHYSICIANS, SMOKING AND HEALTH Nov. 1, (1971). In January 1972, the U.S. Surgeon General concurred:

I can think of no bigger public health hazard about which we know and can do something [than smoking]:

Wall Street J., Jan. 1, 1972, at 5, col. 2.

[8] Smoking's external costs include discomfort and danger to others. *See* note 24 *infra*. Smoking also causes increased welfare and public hospital expenses, heavy forest dam-

age from cigarette fires, and higher auto accident rates. H. DIEHL, TOBACCO AND YOUR HEALTH: THE SMOKING CONTROVERSY 108, 198, 200, 201 (1969). NATIONAL ADVISORY CANCER COUNCIL, PROGRESS AGAINST CANCER 1970, at 42; Speer, *Tobacco and the Nonsmoker: A Study of Subjective Symptoms*, 16 ARCH. ENVIRONMENTAL HEALTH 443 (1968). Although the association between smoking and work loss and hospitalization seems firmly established (*see* DIEHL, *id.* at 198), exact percentages are less certain given the ambiguity in diagnosing many diseases as well as the problems of case sampling. National productivity may suffer also from smoking. In Britain as many as fifty million working days may be lost every year as a consequence of cigarette smoking. ROYAL COLLEGE OF PHYSICIANS, SMOKING AND HEALTH NOW, supra note 7, at 33.

[9] Although intervention to protect the public health has long been an accepted government function, doing so in the case of smoking is challenged by the industry and some conservatives as an infringement of the citizens' freedom. While insuring a clean and safe water supply is beyond the power of individual citizens and requires joint action, it is argued that each person is—and should continue to be—free to choose whether or not to smoke.

There are two counter arguments to this anti-interventionist position. The first is that the individual is no longer free to choose once he has begun to smoke and has become habituated. This argument is reinforced by the fact that most people who start to smoke do so when they are young.

The second counter argument is that the illness, disability, and premature death linked to tobacco are harmful and costly to society as well as the individual victim and thus justify government intervention. *See* note 8 *supra*.

Whether or not the smoker who creates these costs is able to stop at will, the considerable costs he imposes on society by not doing so justify government intervention, if only to limit the costs and/or to seek compensation.

[10] TOBACCO TAX COUNCIL, INC., THE TAX BURDEN ON TOBACCO: HISTORICAL COMPILATION 79 (1971). New York's new tar and nicotine tax is another clear indication of the developing trend of legislative intent against smoking.

[11] Led by the Surgeon General and the Public Health Service, the government issued repeated warnings to the public. It caused warnings to be broadcast in reply to cigarette advertisements under the authority of the FCC's equal-time doctrine, and it forced cigarette manufacturers to print warnings on each pack sold.

[12] Effective January, 1971, cigarette advertisements were banned from the broadcast media, Wash. Post, Jan. 1, 1971, § B, at 1, col. 1.

[13] High cigarette taxes and publicized warnings probably limit the harm done by smoking to some degree by discouraging some potential smokers from beginning and by encouraging a few smokers to switch from cigarettes to relatively less harmful cigar and pipe smoking. All the efforts against smoking have in fact caused the manufacturers to respond to the health issue by catering to the market for lower tar and nicotine brands. Manufacturers certainly know the value of advertising low tar and nicotine content. The Philip Morris Company introduced a new "lowered tar and nicotine" variant on its leading Marlboro brand, called "Marlboro Lights," just after New York passed its tar and nicotine tax.

[14] An analysis of increases in the traditional flat-rate cigarette tax in New York, New York State, and five neighboring states during the last ten years reveals a small decrease in the number of packs taxed per capita shortly after most increases in the tax rates. McKinsey Study, part of the data and analyses prepared for New York City, on file with the *Yale Law Journal*. However, probably only part of that decrease can be explained by the deterrent to sales of post-tax price increases and the publicity about the health implications of smoking usually associated with such increases. Because of the relatively high tax rates of the Northeastern states studied, each new increase would encourage smuggling as well as discourage smoking. In any case, the disincentive effect suggested by the figures is much smaller than that sought by public health officials.

[15] A. PREST, PUBLIC FINANCE 369 (1963); and STANDARD AND POOR'S INDUSTRY SURVEYS: TOBACCO 108 (1970). However, George Weissman, president of Philip Morris, Inc, has stated that he considered flat-rate taxes "a very present and severe threat to sales." N.Y. Times, Jan. 16, 1972, § 3 (Business and Finance), at 7, col. 1.

[16] BUSINESS WEEK, Dec. 25, 1971, at 56; N.Y. Times, Jan. 16, 1972, § 3 (Business and Finance), at 7, col. 2; Wall Street J., Jan. 17, 1972, at 30, col. 2. The prohibition on cigarette broadcasts of course also ended the "equal time" previously made available for warnings about the health consequences of smoking. The net effect of this change may have been to reduce the public's concern about cigarettes.

[17] TOBACCO TAX COUNCIL, *supra* note 10, at 6.

[18] In 1971 the average cigarette, taking sales volume into account, had the same tar level as 1970, but an increase from 1.3 to 1.4 milligrams of nicotine (in a range of 1.0 to 1.8) per cigarette relative to 1970, FEDERAL TRADE COMM'N, THE TAR AND NICOTINE CONTENT OF CIGARETTES, April, 1972; Maxwell, *Cigarette Scorebox*, BARRONS, Nov 2, 1972, at 11.

[19] Maxwell, *supra* note 18. Sales of one hundred millimeter filtered cigarettes advanced seven per cent in 1971, the industry's greatest gain. BUSINESS WEEK, *supra* note 16. This general trend is desirable from the industry's viewpoint because each increase in length means an increase in sales, given the fact that smokers tend not to reduce the number of cigarettes they smoke, even though each one is longer and more expensive. Moreover, smokers of king-sized and 100 millimeter cigarettes tend to smoke their cigarettes as close to the butt as do smokers of regular cigarettes. Moore, Bross, Shamberger & Bock, *Tar and Nicotine Removal From Fifty-Six Brands of Cigarettes*, 20 CANCER 323, 331 (1967). These longer cigarettes, therefore, induce the smoker to absorb more tar and nicotine than he otherwise would. FEDERAL TRADE COMM'N REPORT TO CONGRESS: 1969, at 16–17 (1969); telephone interview with Dr. D. Schoplind of the U.S. Public Health Service, Feb., 1971.

Generally, king-sized cigarettes have higher tar and nicotine levels than regulars and the new 100 millimeter cigarettes have even higher levels. One part of the data and analyses prepared by McKinsey for New York City, on file with the *Yale Law Journal*. This study is confirmed by earlier United States' and Canadian studies using independent measurements. Forbes, Robinson & Stanton, *Tar and Nicotine Retrieval From Cigarettes Available in Canada*, 23 CANCER 910 (1969).

[20] Although in general filtered cigarette smoke has lower tar and nicotine content than unfiltered smoke, some cigarettes have only token filters and others are made from low-grade tobacco (high in tar and nicotine) so that despite the filter the smoker receives a highly dangerous dose. The filter thus engenders a false sense of safety. For example, only four cigarette brands (all nonfilter) out of 121 varieties tested by the Federal Trade Commission in August, 1971, had a higher tar content than the American Brands Company's Bull Durham, a filter cigarette. Only three had a higher nicotine count. Other filter cigarettes with particularly high tar and nicotine contents include Old Gold, Marlboro, and Winston. The United States Public Health Service's National Advisory Cancer Council recommended in 1970 that "a trend noted in some of the more recently introduced filter cigarettes, designed for increased 'satisfaction' and resulting in higher 'tar' and nicotine yields, should be reversed." NATIONAL ADVISORY CANCER COUNCIL REPORT, *supra* note 8, at 56.

[21] A compilation of the alleged links between various diseases and the components of cigarette smoke, on file with the *Yale Law Journal*, originally one part of the data and analyses prepared by McKinsey for New York City.

[22] In the words of a committee reporting to the U.S. Surgeon General: "The preponderance of scientific evidence strongly suggests that the lower tar and nicotine content of cigarette smoke, the less harmful are the effects." *Hearings on H.R. 643, 1237, 3055, 6543, and Similar Bills Before the Committee on Interstate and Foreign Commerce*, 91st Cong., 1st Sess., ser. 91–11, pt. 2, at 455 (1969).

[23] *See* Hammond, *Smoking in Relation to Physical Complaints*, 3 ARCH. ENVIR. HEALTH 146 (1961); Wynder & Hoffman, *Reduction of Tumorigenicity of Cigarette Smoke: An Experimental Approach*, 192 J. AM. MEDICAL ASS'N 88 (1965); Bock, Moore & Clark, *Carcinogenic Activity of Cigarette Smoke Condensate*, 34 J. NAT'L CANCER INST. 481–93 (1965); Forbes, Robinson & Stanton, *supra* note 19, at 910 (1969); Moore, Bross, Shamberger & Bock, *supra* note 19, at 323 (1967).

[24] For example, the level of carbon monoxide in cigarette smoke, which displaces essential oxygen in the blood's hemoglobin, has been linked to arteriosclerosis, coronary heart disease, and temporary mental slowing. PUBLIC HEALTH SERVICE, U.S. DEP'T OF HEALTH, ED. & WELFARE, THE HEALTH CONSEQUENCES OF SMOKING: A REPORT OF THE SURGEON GENERAL 62–63 (1972). The other elements, long listed in this category, are tar and nicotine. Not only was the classic smoke-filled room (or automobile) reported to be dangerous to those with heart or respiratory diseases, but, according to some tests, the level of carbon monoxide introduced into a twelve by fourteen foot room after one pack of cigarettes had been smoked was also sufficient to reduce the auditory discrimination, visual acuity, and ability to distinguish the relative brightness of lights of completely healthy adults. Inhalation of carbon monoxide can be reduced by charcoal filters which are, however, largely ineffective in reducing tar and nicotine. Polynuclear aromatic hydrocarbons in tar, many of which are considered carcinogenic, could also be reduced. REPORT OF THE SURGEON GENERAL 280 (1971); Wynder & Hoffman, *Experimental Tobacco Carcinogenesis*, 162 SCIENCE 862 (1968).

[25] Moreover, the F.T.C. has sought and won a voluntary agreement from most manufacturers to print the F.T.C.-measured tar and nicotine content of each type and brand of cigarette, *Hearings*, *supra* note 22, at 455, 458, and pt. 1, at 87; FEDERAL TRADE COMM'N, REPORT TO CONGRESS PURSUANT TO THE PUBLIC HEALTH CIGARETTE SMOKING ACT, December 1967 and 1970.

[26] Gases such as carbon monoxide are, of course, not part of the smoke's particulate content. However, a reduction in tar and nicotine correlates with a reduction in carbon monoxide. Telephone interview with Mr. Emil Corwin, National Clearing House on Smoking and Health, U.S. Public Health Service, Feb. 18, 1972.

[27] It has been shown that the number of cigarettes smoked, how completely each is smoked, and how deeply the smoke is inhaled are stable habits. DIEHL, *supra* note 8,

at 202; Moore, Bross, Shamberger & Bock, *supra* note 19, at 323, 331; *cf.* TIME MARKETING RESEARCH REPORT No. 1606 (1970). There is still some controversy as to whether the cigarette smoker's "need" for nicotine is physiological or psychological. Telephone interview with Mr. Emil Corwin, National Clearinghouse for Smoking and Health, U.S. Public Health Service, Feb., 1971. *See also* ROYAL COLLEGE, *supra* note 8, at 112–13. Probably the most dramatic proof that the number of cigarettes smoked is not dependent on tar and nicotine levels came with the introduction and rapid popular acceptance of filters. Filters led to a sharp decrease in average tar and nicotine consumption. However, per capita cigarette consumption did not increase in that decade; it leveled off. TOBACCO TAX COUNCIL, INC., THE TAX BURDEN on TOBACCO 3 (1970). It therefore seems safe to assume that reducing tar and nicotine content per cigarette would result in less tar and nicotine consumption, not more.

[28] NAT'L ADVISORY CANCER COUNCIL REPORT, *supra* note 8, at 55, 56; Moore *et al.*, *supra* note 19; Wynder & Hoffman, *supra* note 23; *cf.* Moshy, 162 TOBACCO 22 (1966).

[29] Statement of Professor W. H. Johnson, Department of Biological and Agricultural Engineering, North Carolina State University, *Hearings*, *supra* note 22, pt. 3, at 1368–71. Cigarette manufacturers interviewed reported that the method is not now in use. However, Professor W. H. Johnson of North Carolina State University reports that R. J. Reynolds is experimenting with another method of modifying tobacco structure known as "puffing" which would also reduce tar and nicotine content per cigarette by increasing volume. Dr. Johnson further reports that tests are now being conducted on the use of a volume-expanding foaming agent for reconstituted sheet tobacco that would achieve the same effect. Telephone interviews with Professor W. H. Johnson, and officials and technicians of several major cagirette companies in February, 1971.

[30] Prohibiting smoking altogether would suffer from the same fundamental weakness as past measures. Many, perhaps most smokers, would find their habit driving them to break the law. Unless the federal government were willing and able to mount a massive, uncorruptible enforcement effort, large-scale, high-priced smuggling would result. Given the difficulty of preventing such smuggling, the power of the cigarette industry, the degree to which governments have come to depend on tobacco tax revenues, and the country's experience with the Eighteenth Amendment, total prohibition is not a realistic option.

[31] Even highly selective prohibition would probably create some smuggling unless enforced at the national level. However, should the tax act too slowly or prove inadequate alone, selective prohibition remains a reasonable supplementary step for the national government to consider. Its impact would be instantaneous and unambiguous. Combining selective prohibition of the most dangerous brands with a tar and nicotine tax would not reduce the tax's revenues greatly since most smokers of the prohibited brands would theoretically switch rather than quit.

[32] Some sumptuary excise taxes are affixed according to the undesirable element in the commodity, such as the alcoholic content of wine. Distilled spirits or wine above twenty-four per cent of absolute alcohol by volume are taxed at a rate of $10.50 on each proof gallon. 26 U.S.C. § 5001 (1970). Differential rates are applied to wines: those with less than fourteen per cent of alcohol by volume, generally table wine, are taxed seventeen cents per wine gallon; those with between fourteen and twenty-one per cent are taxed sixty-seven cents per wine gallon; and those with between twenty-one and twenty-four per cent, generally port or sherry, are taxed $2.25 per wine gallon. 26 U.S.C. § 5041 (1970). Beer is taxed at a rate of $9.00 per thirty-one gallon barrel. 26 U.S.C. § 5051 (1970). If beer were taxed at the distilled spirits rate, the amount due would be $26.04. Despite the apparent parallel with the tar and nicotine tax, these taxes are not perceived as incentive taxes designed to reduce consumption. The higher rates for higher proof drinks are defended instead primarily on the grounds of progressivity. Moreover, there is a great deal of difference between beer and scotch, table wine and sherry—much more so than between Winstons and Marlboros. This difference substantially reduces and potential effectiveness of a tax designed to cause switching by creating price differences. Nonetheless, the differences that do exist in fact encourage some marginal switching from distilled spirits to "the poor man's drink," beer.

[33] *See* J. DUE, INDIRECT TAXATION IN DEVELOPING ECONOMIES 63–64 (1970); STAFF OF THE JOINT ECONOMIC COMM., 88TH CONG., 2D SESS., THE FEDERAL TAX SYSTEM: FACTS AND PROBLEMS 150 (1964).

[34] Incentive taxes allow the government to intervene in many areas of production and consumption without assuming the burdens of operating the production enterprise. Government operations are often classic monopolies, either because competition is legally prohibited (as with the police) or because the services provided are at prices well below cost (as with sanitation or health services). Such monopolies have become inefficient and unresponsive; the task is now to create a government that can provide essential services, police the market economy, reallocate resources, and set social priorities, through more effective, responsive, and efficient mechanisms.

Taxation is but one of several means by which government can amend the existing market situation through incentive devices. Government could ensure that adequate resources are given to those whom it wishes to target for specific services by issuing chits or vouchers redeemable in cash by any qualified and licensed person who provides the specified service. For services like sanitation, government could act as a bargaining agent representing its citizen constituency in awarding short-term franchises to independent contractors and then policing and evaluating their performance. Government bounties could be paid directly to those who have done something the state wants done, and could be used, for example, to replace the corruptible police monopoly at least in areas like white-collar law enforcement. Incentive taxes are thus negative bounties penalizing those who fail to do what the government wants.

[35] Moreover, since companies already satisfying the standards set for tax exemption, and/or those relatively close to meeting the standards would benefit from such a differential tax, opposition from the industries to be taxed might be less than what one would otherwise expect. The opposition to a new incentive tax, however, is likely to be more vigorous than is the case with more traditional across-the-board taxes—*e.g.*, excise and sales taxes. This is so because an effective incentive tax will force uncomfortable changes on an industry of usually politically well-organized companies, whereas the traditional flat-rate in the end affects only consumer prices. Although the impact of a tar and nicotine tax would vary a great deal from company to company, no industry source has yet supported such a tax.

[36] Some reformers have, however, long argued that the current flat-rate tax on cigarettes should be replaced by an *ad valorem* tax on the grounds that the flat-rate tax contributes significantly to the oligopolistic structure and lack of price competition in the industry by bearing down proportionately more heavily on any low-priced cigarette. *See* Robertson, *Concentration in the Tobacco Industry as Affected by Tax Policies* in TAXATION & BUSINESS CONCENTRATION, (The Tax Institute ed. 1950). *See also* N. SHILLING, EXCISE TAXATION OF MONOPOLY 225–30 (1969). A tar-nicotine tax would run afoul of this argument because it differentiates according to the degree to which a cigarette endangers the public health and not according to price. However, price competition in the cigarette industry is undesirable from the perspective of public health policy. Government almost certainly does not wish to induce new companies into the industry or to foster the aggressive competition or price-cutting that would result. Its intent seems clearly to be to discourage smoking, not vice versa. Price competition would be especially harmful from a health point of view: Because high tar and nicotine tobacco is relatively inexpensive, it would probably be preferred by manufacturers of low-priced cigarettes.

[37] The costs of the smoking-related illnesses and premature death cannot of course be quantified. Even if exact charges could be calculated, administrative limitations would probably not allow as many rate distinctions between the different goods in any taxed class as the differences in the so imposed costs would justify.

[38] Some retailers now pass on the slightly higher wholesale price for "100" cigarettes while others do not.

[39] Distributors and retailers may also favor brands that give them a better profit margin by, for example, giving them the best display positions and more columns in the vending machines.

[40] Promotional efforts may succeed if one assumes that preference for any one brand of cigarette is primarily, if not exclusively based on something that goes on in the mind rather than in the body. *See* Robertson, *supra* note 36, at 33.

[41] However, even if a tar and nicotine tax were reflected in varying retail prices, some consumers, attempting to assess the relative hazards of different cigarettes, might be confused if they depended on price distinctions alone. A tar and nicotine tax with three different rates—like New York's 0, 3 and 4 cents a pack—could lead each retailer to sell cigarettes at as many as six different prices, with up to three prices for regular and king-size brands of varied tar and nicotine content and three prices for the generally higher-priced 100 millimeter brands. Possibly some relatively safe 100 millimeter cigarettes would be selling for more than shorter cigarettes with higher tar and nicotine levels. However, the probability of this confusion occurring is limited: Not all retailers maintain the small price differential for 100 millimeter brands, and the 100's generally have higher tar and nicotine levels.

Some confusion might also occur because prices will vary from retailer to retailer (because of differences in overhead, competition, the use of tobacco as a central or attraction item, etc.). Consequently, even with retail prices that fully reflect the tax's differentials, a low tar and nicotine cigarette may have a higher price when retailed by Store A than a high tar and nicotine cigarette retailed by Store B. This risk would, of course, decline rapidly as the differential between taxed and exempt cigarettes increased.

Fortunately, these problems are more apparent than real. Consumers who buy only one brand will not be affected. Other consumers are unlikely to be misled by markups that vary from store to store, as such variation does not affect the price differences between brands at any particular outlet.

[42] For example, retail tobacconists may attempt to maintain the current simple one and two price structure, with higher prices in some outlets for 100 millimeter cigarettes, especially where they must sell large volumes quickly such as at concessions in athletic stadiums or railroad stations. This has

clearly been the case in New York. The size of the tax will be a major factor in these decisions: A few cents per pack can obviously be more easily absorbed than a dime. *See* pp. 1505–06.

[43] In 1933, the major cigarette manufacturers cut their prices forty per cent to deal with "economy cigarettes" sold by competitors. Robertson, *supra* note 36, at 31–32.

[44] *See* p. 1513. This calculation does not include wholesaler and retailer margins because these men are unlikely to be willing to give up much of their margins to protect one brand over another as long as total sales are not immediately threatened.

[45] After New York's tar and nicotine tax was enacted, the Philip Morris Company introduced "Marlboro Lights," a variant on their leading Marlboro brand with tar and nicotine levels "lowered" below the city's cut-off points. This introduction of a variant on a major brand, instead of an entirely new name, was a departure from the industry norm. At the same time, American Brands introduced a conventional new low tar brand, "Lucky Ten." The introduction of these brands may have been caused by factors other than the New York tax, such as a growing consumer demand for low tar cigarettes as a result of government warnings. It seems probable, however, that the tax at least added to the already considerable "health issue" pressure on the industry, and possibly suggested a way to respond.

[46] Tar and Nicotine Ordinances, Local Law 34, 5 NEW YORK CITY, N.Y., ADMIN. CODE § D46.8.0 (Supp. 1971).

[47] In spite of his authority to control prices, the Finance Administrator chose to act initially to require only that all retailers post notices provided by the city explaining why and how much each brand is taxed. See *The City Record*, Nov. 30, 1971, at 5471, col. 2, and N.Y. Times, Dec. 24, 1971, at 7, col. 3.

[48] Robertson, *supra* note 36, at 29–34.

[49] *See* U.S. DEP'T OF AGRICULTURE, June 1970, at 9 TOBACCO SITUATION.

[50] *See* note 13.

[51] This estimate is computed by determining how many packs of cigarettes actually passed through the city's tax mechanism by dividing total revenue from the old four-cents-a-pack flat-rate tax by four. Then, by taking the pretax proportion of total cigarette sales attributable to each level of tar and nicotine, one can compute what the size of the new tax should be if no shifting had occurred. The average monthly revenue from New York's tax has been 15.4 per cent below that figure. (The months of July and August 1971 were excluded from this calculation because the revenue generated in these months was temporarily depressed by administrative start-up problems.)

The difference would be explained if there had been a shift of 12.7 per cent of all cigarettes sold from high tar and nicotine to exempt brands. This figure assumes that the ten per cent of cigarettes above only one of the two standards (and therefore taxed at only three cents) will be twice as likely to be switched to the zero cent rate as the seventy-five per cent of all brands (taxed at four cents) which are farther from the borderline. The monthly revenue figures were supplied by Mr. Peter Shalleck of the New York City Finance Administration, January and June, 1972.

[52] *See* p. 1502.

[53] The low tax differentials of three to four cents a pack allow many retailers to continue to charge one price for all brands. This presumably limits the tax's impact on the consumer. Indeed, if the tax had no impact, its failure might have been explained by the inadequacy of the incentive. Still, the failure of the tax's distinctions to be reflected fully in retail prices suggests that future taxes should have larger differentials.

[54] Revenue estimates based on the 1971–72 brand sales volume and tar-nicotine level figures are higher, not lower, than 1970–71. The average level of tar remained constant but the average level of nicotine increased significantly. Maxwell, *Cigarette Scoreboard*, BARRONS, Dec. 1971; Feb. 1972; and the Apr. 1972, F.T.C. Tar and Nicotine Measurements.

[55] Although the city has 3.8 per cent of the nation's population, its traditional four-cents-a-pack flat-rate cigarette tax is collected on only 1.5 billion cigarettes, 3.3 per cent of national sales. The assumption that the difference is smuggled is supported by the fact that urban centers have the highest population of smokers, followed by suburbs, and then rural areas. DIEHL, *supra* note 8, at 122–23.

[56] The calculation of twelve to thirteen per cent indicates what is happening among those who buy from legitimate dealers. Since those who buy from both legitimate and illegal sources will almost always buy the same brand in both places, the trend observed among sales by legitimate dealers may also be reflected in the black market. On the other hand, some smokers of brands now subject to the new tax may have sought out bootleg sources to avoid the tax. This last possibility is somewhat tempered by the fact that cigarette smugglers pass on to their customers only part of the difference between their purchase supply cost and legitimate retail prices. Thus, some New York smuggling operations are reported to be charging a higher price for cigarettes subject to the tar and nicotine tax than for those that are exempt. Interview with Mr. Morris Weintraub, Managing Director, Wholesale Tobacco Distributors of New York, Inc., Dec. 23, 1971.

[57] The two per cent increase attributed to the tar and nicotine tax is derived as follows. For the first ten months of the fiscal year 1971–72, the total rise in smuggling and avoidance for New York was 3.8 per cent. This 3.8 per cent figure is computed by comparing the average monthly tax receipts for the first ten months of the fiscal year 1971–72 with the average receipts for 1968–71. The tax receipt data were supplied by Mr. Peter Shalleck, New York City Finance Administration. During the period 1968–71, average per capita consumption remained virtually static: 2640 cigarettes per capita in 1968 *vs.* 2648 cigarettes in 1971. TOBACCO TAX COUNCIL, *supra* note 10, at 3. Since the city's population has also remained static during 1968–71, the 3.8 per cent smuggling and avoidance estimate should not be increased by any increase in total national sales.

However, it would be wrong to attribute the 3.8 per cent increase solely to the tar and nicotine tax. On June 1, 1971, the sales tax was raised one per cent—which is equivalent to .5 to .6 cents a pack. The tar and nicotine tax had an average initial impact of 3.5 cents a pack. The state cigarette tax was then increased three cents a pack in February 1972. Although one can see a further drop in taxed sales after February 1972, it is extremely difficult to disentangle the effects of the different taxes directly. However, a reasonable assumption is that the tar and nicotine tax caused only as much of the loss as its portion of the increased tax burden, roughly half the 3.8 per cent loss.

[58] Smugglers would have to increase the number of high-tar and nicotine cigarettes sold dramatically to account for the switching reflected in the city's revenue figures. Even if all the increase in smuggling were in high-content brands, and if all prior-bootleg sales of low-content brands were replaced with high-content sales, the increase in high tar and nicotine cigarettes sold necessary to account for New York's switching could be reached only if prior bootlegged sales had an exceptionally large proportion of low-content brands, a rather unlikely eventuality.

[59] Interview with Mr. Morris Weintraub, and Mr. Alan Weintraub of the Cigarette Merchandisers' Association (New York), December, 1971.

[60] The McKinsey estimate of the annual revenue that New York City could expect from its tar and nicotine tax was $22.6 million. Although revenue for the first six months was running at a $22.7 million annual rate, the slow start up in July and August, added smuggling and avoidance caused by other increases in the local cigarette tax burden, and some continuing switching to low tar brands may push actual first year revenue slightly below $22.6 million.

[61] These estimates are all based on the assumption that tax liability would result, as in the case of New York, at cut-off points of 17 milligrams of tar and 1.1 milligrams of nicotine per cigarette. A midrange revenue estimate for the first year of a national tar and nicotine tax with rates of 0, 3 and 4 cents a pack is $839 million; a similar estimate for rate of 0, 9 and 10 cents a pack is $1,978 million. Assuming that total demand for cigarettes remained unchanged, each additional penny added to the existing flat-rate federal tax of 8 cents per pack would rate $255.8 million in new revenue a year. TOBACCO TAX COUNCIL, THE TAX BURDEN ON TOBACCO 6 (1970).

[62] Smuggling and evasion can be estimated from past increases in cigarette tax rates, although a tar and nicotine tax should lead to somewhat less smuggling than an equivalent flat-rate cigarette tax as it would provide smokers with the legal alternative of avoiding the tax by switching to low tar and nicotine cigarettes. For a discussion of increases in cigarette tax rates see BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, STATE GOV'T FINANCES IN 1970 (1970). Given past experience, revenue estimates can assume that additional tobacco taxes will not lead to a rapid, lasting drop in cigarette consumption although it may help discourage some people from starting the habit and a small number from continuing. *Cf.* CITY AND COUNTY OF DENVER, FINANCING MUNICIPAL GOVERNMENT IN DENVER (1955); Hamovitch, *Sales Taxation: An Analysis of the Effects of Rate Increases in Two Contrasting Cases*, 19 NAT'L TAX J. 411 (1966); McAllister, *The Border Tax Problem in Washington*, 16 NAT'L TAX J. 362 (1961).

[63] This effect tends to be hidden because the areas with highest cigarette retail prices (and taxes) are generally urban, and city-dwellers smoke more on average than non-urban Americans.

[64] *See* note 57 *supra*.

[65] State governments would have no trouble in piggy-backing on their own taxes. Local governments without a cigarette tax of their own would, however, probably have to work out an agreement with their state's tax administration to permit joint stamps and common licensing of agents.

[66] FEDERAL TRADE COMM'N, TAR AND NICOTINE CONTENT OF CIGARETTES (issued periodically).

[67] For example, some of the older machines located in markets like New York with unusually high prices will have trouble moving to prices of sixty-five or seventy cents a pack because at least four coins will be required for each transaction. Telephone interviews with Mr. Alan Weintraub, The Cigarette Merchandisers' Association (New York) and Mr. Classano, Rowe International Corporation, vending machine manufacturers and operators, February 1971.

[68] In New York City, only half the cigarette vending machines can handle three or more prices; an additional forty per cent are able to charge two different prices. Telephone interviews with twenty vending machine companies in the metropolitan area, February 1971.

[69] The old one-price machines are owned and operated primarily by clubs, restaurants,

and small stores. Increased price variation would reduce the value of these older machines somewhat, thereby hurting the small businessmen.

[70] In either case the vending machine company would find sales of low tar and nicotine cigarettes more profitable than those taxed at a higher rate, which should lead operators to seek to sell a larger percentage of low tar and nicotine cigarettes.

[71] Vending machine operators in New York City have experienced a short-term conversion problem, a permanent increase in clerical costs, a new fall in sales due to smuggling, and some problems of theft by servicemen as a result of the tar and nicotine tax. (Correspondence from Cigarette Merchandisers' Association (New York) to Richard Lewisohn, Finance Administrator, and Mr. Harry Katz, Assistant Finance Administrator, July to December 1971; interview with Mr. Morris Weintraub and Mr. Alan Weintraub of the Association and the Wholesale Tobacco Distributors of New York, December 23, 1971.) One of the largest vending companies, Paramount, claims a conversion expense of $16,000. However serious the costs of conversion and increased record keeping, the vending machine companies' chief complaint is a drop in sales allegedly ranging up to fourteen per cent. (Correspondence between vending machine operating companies, November and December 1971.) The vending companies affected attribute these losses to smuggling, although the number of packs actually taxed declined only 2.8 per cent following the imposition of the tar and nicotine tax and increased state sales tax.

[72] This cost would be substantially smaller than that of initially adjusting to several different rates because it could be accomplished primarily by shuffling brands in the columns of the machines.

[73] *See, e.g.*, p. 1502 *supra*.

[74] D. CRESSEY, THEFT OF A NATION 245 (1969); R. SALERNO & J TOMPKINS, THE CRIME CONFEDERATION 38, 158 (1969); letter from Governor Nelson Rockefeller of New York to Congressman Emanuel Celler, Jan. 23, 1970, stating, "[C]igarette smuggling has proved to be a highly profitable source of income for elements of organized crime. . . ."

[75] The tobacco industry in areas subject to smuggling could minimize evasion under a tar and nicotine tax by not raising cigarette prices on cigarettes not subject to new taxes. The industry campaigned vigorously against New York's new tax on the grounds that the tax increase would encourage smuggling, an entirely legitimate argument. However, the industry's initial effort to raise prices five cents across the board once the tax was enacted, even on those cigarettes not subject to the tar and nicotine tax at all, is not consistent with its sense of urgency and commitment in dealing with the problem.

[76] Although most smokers have strong short-term brand loyalty, the typical smoker changes brand allegiance periodically. The new federal ban on cigarette broadcast advertising may weaken brand loyalties. Brand market shares have, in any case, fluctuated widely over time (STANDARD & POOR'S, *supra* note 15, at 106–08). However, *short-term* brand loyalty for cigarettes is quite high. (*See Consumer Dynamics in the Supermarket*,, at PROGRESSIVE GROCER K89 (1966).)

[77] Mr. Albert Sohn of the New York State Commission of Investigation estimates that the State and City of New York lost $342 million in revenues as a result of cigarette sumggling over the last six years. The New York Post, Jan. 18, 1972, at 4 col. 2.

[78] Testimony of Mr. Beverly Starkey, chief of the New York Special Investigating Division and Mr. Joseph Haggerty, head of the Cigarette Tax Enforcement Unit, before the New York State Investigation Commission, Jan. 19, 1972. Cigarette smuggling in New York is a misdemeanor, regardless of the volume smuggled. However, the civil tax penalty is stiff—$100.00 a carton plus fifty per cent of the unpaid cigarette tax.

[79] Any increase in cigarette taxes, regardless of its form, will have to meet the objection that such an increase is regressive. The poor and near-poor begin smoking at an earlier age and smoke more than the more wealthy and better educated. A. PREST, PUBLIC FINANCE 370 (1963); Heath, 101 A.M.A. ARCH. INTERNAL MEDICINE 377 (1958); McArthur, Waldron & Dickinson, *The Psychology of Smoking*, 56 J. ABNORMAL & SOCIAL PSYCHOLOGY 267, 267–75 (1958); Salber & MacMahon, *Cigarette Smoking Among High School Students Related to Social Class and Parental Smoking Habits*, 51 AM. J. PUBLIC HEALTH 1780 (1961). Smokers with annual incomes of less than $6,000 spend a roughly constant proportion of their income on tobacco; wealthier smokers spend proportionately less. DIEHL., *supra* note 8, at 122–23.

[80] Bell & Laing, *Statistical Analysis of Mortality Rates of Cigarette, Pipe and Cigar Smokers*, 100 CANADIAN MEDICAL ASS'N J. 806 (1969).

[81] Cigar and pipe smoke is so heavy and alkaline that inhaling is unpleasant and therefore rare. In early 1971, the Royal College of Physicians (London) reported that:

> The (resulting) remarkable disparity of risk between smokers of cigarettes and smokers of pipes and cigars suggests that much saving of life and health might be achieved if cigarette smokers were to change to pipes and cigars.

ROYAL COLLEGE, supra note 7, at 131. To encourage such switching, the Royal College advocated tax differentials. In fact, such differentials already exist in the United States: For example, the federal government taxes cigars with the same tobacco content as cigarettes at $0.75 a thousand rate instead of the $4.00 a thousand rate applied to cigarettes. 26 U.S.C. 5701(a)(b) (1954).

No study has been undertaken as of this date which has compared the danger of smoking small cigars to that of smoking cigarettes. Telephone interviews with Dr. George Moore, Roswell Park Memorial Institute; Dr. Woodward, Department of Agriculture (Philadelphia Laboratory); Dr. Don Schoplind, National Clearinghouse for Smoking and Health; and Mr. Brauninger, Federal Trade Commission, February 8, 1971. Dr. Moore suggested that small cigars were probably less dangerous than cigarettes because they are likely to be inhaled less frequently, and because fewer are likely to be consumed by the average smoker on any given day.

However, even so, the pipe smoker has a mortality rate eleven per cent higher than nonsmokers. Garfinkel, *The Association Between Cigarette Smoking and Coronary Heart Disease and Other Vascular Diseases*, 44 BULL. N.Y. ACAD. MED. 1496 (1968). *See also* SURGEON GENERAL'S REPORT 233 (1964).

[82] *See, e.g.*, TIME MARKETING AND RESEARCH REPORT No. 1606 (1970).

[83] Annual Reports compiled by Cigar Manufacturers Association of America and First National City Bank, Letter of Apr., 1970.

[84] Moreover, past experience with cigar and manufactured tobacco taxes has been discouraging. Although all the states, and at least 272 localities tax cigarettes, only twenty-two states and seventeen localities tax other tobacco products. Congress repealed the tax on manufactured tobacco in 1965, primarily because it was considered especially regressive. New York State imposed a fifteen per cent tax on cigars and pipe tobacco in 1959, but the tax was repealed in 1961, after massive smuggling and mail order evasion, a drop in retail sales of twenty-five to thirty per cent, declines in tobacconists' sales of other goods, and spirited opposition from the retailers supported by the press. *See N.Y. Times*, Nov. 29, 1959, § 3 at 1, col. 8, June 15, 1960, § 4, at 1, col. 5.

[85] The Federal Trade Commission's *Tar and Nicotine Content of Cigarettes*, which is issued periodically, shows variations in the relationship between the tar and nicotine levels in individual brands from November, 1970, to April, 1972.

[86] Providing special reductions or exemptions from existing flat-rate taxes as well as from the extra charges of a tar and nicotine tax for the small number of cigarettes with exceptionally low tar and nicotine counts—*e.g.*, those with less than 10 mgs. of tar and 0.6 mgs. of nicotine per cigarette—would be a valuable refinement of the incentive structure that would involve so little revenue loss that it might be acceptable even to governments giving high priority to the goal of revenue generation. Providing this additional incentive would underline the tax's public health objective, thereby increasing its potential educational impact.

[87] This consideration is important because as the number of consumers shifting from a taxed-brand decreases, the manufacturer is less likely to alter the tar and nicotine content of his brand for fear of jeopardizing his remaining market. However, if he can easily get the tar and nicotine content of his brand below the cut-off points, even a slight decrease in his market might push him to avoid the tax, thereby causing an involuntary switch by his remaining consumer market.

[88] McKinsey compilation on file with the *Yale Law Journal*, orginally one part of the data and analyses prepared for New York City.

[89] In a range of ten to thirty milligrams per cigarette of tar, sixty-three per cent of all cigarettes produced fall within the narrow band of eighteen through twenty milligrams. The next largest such three milligram grouping would be nineteen through twenty-nine milligrams, which accounts for approximately forty-five per cent of all cigarettes produced. A tax cutoff between seventeen and eighteen milligrams or eighteen and nineteen milligrams therefore appears to be the point of maximum leverage. In a range of 1.0 to 1.8 milligrams of nicotine per cigarette, a pattern somewhat similar to that of tar content is apparent; sixty-seven per cent of all cigarettes fall in the 1.2 to 1.4 milligram band and seventy-three per cent in the 1.3 to 1.5 milligram band.

[90] A seventeen milligrams of tar cutoff would yield a local government approximately seventeen per cent more revenue than an eighteen milligram cutoff, assuming a four cent a pack rate for cigarettes above the standard and the probable switching as a result of the tax.

A 1.1 milligram per cigarette cutoff for nicotine would yield approximately three per cent more revenue than a cutoff of 1.2 miligrams assuming a four cents a pack rate and estimated switching (based on New York City's experience) as a result of the tax.

[91] McKinsey calculations based on FEDERAL TRADE COMM'N, TAR AND NICOTINE CONTENT OF CIGARETTES, November, 1970, April, 1972; Maxwell, *Cigarette Scorebox*, BARRONS (Fall 1970).

[92] STANDARD & POOR'S, *supra* note 15, at T114 (1970). However, company profit margins vary widely.

[93] When enacted, New York's tar and nicotine tax made the city cigarette taxes the highest in the nation. Nevertheless, fourteen states, including all of New York State's immediate neighbors, still had higher ratios of tax to average retail price. Based on comparisons made from COMMERCE CLEARING HOUSE, *State Tax Reporter* on state tax rates.

[94] For much the same reasons only the federal government would find it easier to implement selective prohibition than local governments subject to smuggling.

[95] *See* p. 1502.

[96] It is possible that the industry might seek to undercut the tar and nicotine tax innovation by making it seem ineffective. The industry has lobbied against the tax vigorously thus far, clearly perceiving it as a

threat. It could afford to do so, even in the face of steep local taxes, if a procedure for supporting local dealers with resources from the rest of the industry—possibly analogous to the oil companies' support for local outlets during gasoline price wars—could be worked out.

[97] *See* p. 1500.

[98] *See* p. 1505.

[99] Government facing stiff citizen resistance to new taxes may find the dual health and revenue intent of the tar and nicotine tax a significant advantage. In the words of one high New York City official, "Who can oppose a tax on cancer?"

S. 456

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

SEC. 2. (a) Section 5701(b) of the Internal Revenue Code of 1954 (relating to tax on cigarettes) is amended to read as follows:

"(b) CIGARETTES.—On cigarettes, manufactured in or imported into the United States, there shall be imposed the following taxes:

"(1) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, the tax shall be determined under the following table:

"If the tar content thereof is—	The tax per thousand cigarettes shall be—
10 mg. or less	$4
More than 10 mg. but not more than 15 mg	7
More than 15 mg. but not more than 20 mg	10
More than 20 mg	15

"(2) LARGE CIGARETTES.—

"(A) IN GENERAL.—On cigarettes weighing more than 3 pounds per thousand, the tax per thousand shall be 2.1 times the tax prescribed by paragraph (1).

"(B) SPECIAL RULE FOR LONG CIGARETTES.—On large cigarettes (as described in subparagraph (A)) which are more than 6½ inches long, the tax per thousand shall be determined under paragraph (1), counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

"(3) DETERMINATION OF TAR CONTENT.—

"(A) TESTING BY FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall from time to time (but not less often than once each calendar year) test each brand of cigarettes manufactured in or imported into the United States for the tar contents of cigarettes of such brand. The conditions, methods, and procedures for conducting such tests shall be prescribed by (and may be changed by) the Commission by regulations issued by it for purposes of this paragraph. Until such time as such regulations are first issued, the conditions, methods, and procedures for conducting such tests shall be those approved by the Commission for formal testing which are in effect on the date of the enactment of the Cigarette Tar Tax Act.

"(B) CERTIFICATION TO SECRETARY.—At least once each calendar year, the Chairman of the Federal Trade Commission shall certify to the Secretary or his delegate, on the basis of the tests conducted pursuant to subparagraph (A); the tar content of each brand of cigarettes manufactured in or imported into the United States. The tar content of a brand of cigarettes as contained in such certification shall, for purposes of applying paragraphs (1) and (2), be the tar content of cigarettes of such brand for the period beginning with the day after such certification is made with respect to such brand and ending with the day on which the next certification is made with respect to such brand."

(b) The amendment made by subsection (a) shall take effect on the first day of the first calendar quarter which begins more than 30 days after the date of the enactment of this Act, except that, with respect to the authority of the Federal Trade Commission to issue regulations for purposes of sections 5701(b)(3) of the Internal Revenue Code of 1954 (as added by subsection (a)), such amendment shall take effect on the date of the enactment of this Act.

* * * * *

A bill to amend the taxation law of the State of ——— to increase the rate of tax imposed on the sale and use of certain cigarettes

Be it enacted by the Senate [General Assembly] as follows:

Subdivision —— of Section —— of Title —— of the Taxation Law of the State of —— is hereby amended to read as follows:

SECTION 1.

(a) A tax is hereby imposed on the sale, use, possession for sale within this State of all cigarettes at the rate of —— for each ten cigarettes or fraction thereof.

(b) In addition to the tax provided for in subdivision (a), there is hereby imposed a tax on the sale, use or possession for sale within this State of all cigarettes according to the tar and nicotine content of said cigarettes, at the following rates:

1. —— cents for each ten cigarettes where the tar content exceeds x milligrams per cigarette; except that for each —— milligrams per cigarette over x milligrams the tax shall be increased by —— cents.

2. —— cents for each ten cigarettes where the nicotine content exceeds y milligrams per cigarette; except that for each —— milligrams per cigarette over y milligrams the tax shall be increased by —— cents.

(c) The term "use" means the exercise of any right or power actual or constructive and shall include but is not limited to, the receipt, storage or any keeping or retention for any length of time, but shall not include possession for sale.

SEC. 2. The [State Commissioner of Revenue] shall prepare annually a list of the tar and nicotine content of all brands of cigarettes sold within this State. In establishing said list, the most recently published report of the Federal Trade Commission concerning the tar and nicotine content of cigarettes, or in the event that the Federal Trade Commission has not published such a report within the last twelve (12) months, a report obtained from a testing laboratory satisfactory to the [State Commissioner of Revenue], shall be prima facie evidence of the tar and nicotine content of the various brands of cigarettes.

SEC. 3. The [State Commissioner or Revenue] shall utilize the list provided for in Section 2 to annually assess the amount of additional tax to be imposed on each brand and type of cigarette as provided in Section 1(b).

SEC. 4. The [State Commissioner of Revenue] is hereby empowered to do all acts necessary for effectuating the purposes of this law, including adoption of rules and regulations in furtherance of the statutory purpose.

SEC. 5. It is intended that the ultimate incidence of the tax shall be upon the consumer. In furtherance of this intent, the [State Commissioner of Revenue] may provide by appropriate regulation for the maintenance of such differentials in wholesale and retail prices of cigarettes sold by any vendor, other than the manufacturer, so as to reflect the amount of tax attributable to the tar and nicotine content of cigarettes sold. In so doing, he may use and consider the factory price of various brands of cigarettes. In addition, he may consider the mode or method by which retail sales are effected and limit his regulations so as to affect any one or more or all of such modes or methods.

* * * * *

SEC. 7. It is intended that the taxes imposed by this Article shall be imposed upon only one sale of any cigarette. The primary responsibility for the tax shall rest at the wholesale level. It shall be presumed that all cigarettes within the state are subject to tax until the contrary is established, and the burden of proof that any cigarettes are not taxable hereunder shall be upon the person in possession thereof.

* * * * *

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, if the Chair will recognize me, I will be glad to yield to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for an additional 3 minutes.

Mr. MOSS. Mr. President, I thank the Senator from West Virginia for his courtesty.

QUORUM CALL

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

NOTICE PUBLISHED IN THE FEDERAL REGISTER

A letter from the Acting Assistant Secretary for Science and Technology, Department of Commerce, transmitting, for the information of the Senate, a notice of finding published in the Federal Register that a flammability standard for children's sleepwear, sizes 7 through 14, may be needed (with accompanying papers); to the Committee on Commerce.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

H.R. 4278. An act to amend the National School Lunch Act to assure that Federal financial assistance to the child nutrition programs is maintained at the level budgeted for fiscal year ending June 30, 1973 (Rept. No. 93–59).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 80. An original resolution to pay a gratuity to Shirley L. Bacon. Placed on calendar.

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment:

S. 590. A bill to require that future appointments of certain officers in the Executive Office of the President be subject to confirmation by the Senate (Rept. No. 93–60). Referred to the Committee on Armed Services.

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. BELLMON:

S. 1162. A bill to encourage the development of the natural energy resources of the United States in order to assure dependable and adequate energy supplies. Referred to the Committee on Interior and Insular Affairs, by unanimous consent.

By Mr. BAKER:

S. 1163. A bill to provide for a program for the regulation of surface mining of coal to protect the environment, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. CHILES (for himself and Mr. GURNEY):

S. 1164. A bill to provide for the establishment of the Guano River National Park in the State of Florida, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS:

S. 1165. A bill to amend the Federal Cigarette Labeling and Advertising Act of 1965, as amended by the Public Health Cigarette Smoking Act of 1969, to define the term "little cigar" and for other purposes. Referred to the Committee on Commerce.

S. 1166. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to require the establishment of a Federal motor vehicle safety standard with respect to rear lighting. Referred to the Committee on Commerce.

By Mr. HART:

S. 1167. A bill to supplement the antitrust laws, and to protect trade and commerce against oligopoly power or monopoly power, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 1168. A bill to provide for the establishment of an Older Workers Conservation Corps, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. HRUSKA:

S. 1169. A bill for the relief of Henry Edward Steele. Referred to the Committee on the Judiciary.

By Mr. FULBRIGHT (by request):

S. 1170. A bill authorizing continuing appropriations for Peace Corps. Referred to the Committee on Foreign Relations.

S. 1171. A bill to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations, and for other purposes. Referred to the Committee on Foreign Relations.

By Mr. ERVIN (by request):

S. 1172. A bill to amend the Act of August 25, 1958, as amended, and the Presidential Transition Act of 1963. Referred to the Committee on Government Operations.

By Mr. SPARKMAN:

S.J. Res. 74. A joint resolution to authorize the President to issue a proclamation designating the last full calendar week in April of each year as "National Secretaries Week." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BELLMON:

S. 1162. A bill to encourage the development of the natural energy resources of the United States in order to assure dependable and adequate energy supplies. Referred to the Committee on Interior and Insular Affairs, by unanimous sent.

NATIONAL ENERGY RESOURCE DEVELOPMENT ACT OF 1973

Mr. BELLMON. Mr. President, plainly the events of this winter have proved that the United States must have a clear, concise, definite national energy policy. I am today introducing a bill to help accomplish this objective.

This proposal is based primarily upon my experiences as a member of the Interior Committee which, under the leadership of its able chairman, Senator Henry JACKSON, has conducted months of hearings on energy policy. These hearings are pursuant to the terms of Senate Resolution 45 whose principal author is the distinguished senior Senator from West Virginia (Mr. RANDOLPH).

It is not the intent of this proposal in any way to attempt to preempt the work of the Senate Interior Committee, which is well along in developing a proposal for a national energy policy under the terms of Senate Resolution 45. Rather, it is my intent to sum up the impressions gained in 4 years' work as a member of the Interior Committee as a contribution to the total effort of the Senate in developing a national energy policy.

Mr. President, absurd as it sounds, every Member of this body and every citizen of this Nation should now be giving thanks for the weatherman—we should bless him because he has been particularly rough on us this winter. This winter he has hit the country with a series of low blows almost unparalleled in our country's history. Consider—record snows in the South, record early cold in the Midwest, record rain in the Corn Belt, January temperatures 20–30 degrees below normal, and ice storms all over the Nation. In so doing he has done the country a real favor.

Until now, our country has been fiddling while it has been running out of fuel to burn. Because of the capricious nature of this winter's weather we have record demands upon the Nation's energy supplies—heating oil to warm cold homes, residual oil to heat factories, coal and natural gas to turn electric turbines, liquefied petroleum gasses to fuel crop dryers, and diesel fuel, jet fuel and gasoline to move freight and passengers. These demands have not been met.

What is the good of all this? It is this: By hitting the country with his Sunday punch, the weatherman has done more to wake the Nation up to its energy problems and bring environmental realism than all the energy speechmakers put together.

Miraculously, just when the weatherman had the country down for a nine count, he relaxed his grip; and it now appears we will make it through the rest of the winter without people freezing in the dark.

But another winter is less than 12 months away. We must use this time to correct the senseless energy policy or lack of policy we have followed these past 20 years.

The energy problem—whether it is a crisis or not—now has the country's attention. It does not take many hours in a cold home or office or many days of factory shutdown to convince folks that the Nation's energy problems are very real and very, very present.

The question is asked: Do we need to run short of energy? The answer is, "No," at least not for the next 500 years. We have more than enough natural deposits of oil, natural gas, uranium, coal, and oil shale still in the ground to last at least 500 years.

Beyond that, who knows? By then surely we will have perfected a solar cell or harnessed fission or learned to draw heat from the core of the earth. In fact, we may have practical, workable breeder reatcors operating by 1990. Our big energy problem consists of getting along for these next 20 years. A person can get awfully cold and hungry in 20 years, or 20 days, or 20 hours.

If all these natural energy sources are lying around, how did we get in this shape? Let me tell it like it is. The plain, bald fact is this: Our problem is mostly the fault of Government.

First, there is the Federal Power Commission. It got started in the energy policy business a few years back when the oil production States got fed up with seeing their natural gas being burned up in flares. They passed laws saying the oil producers could not sell their crude oil until they also found a market for their natural gas.

That forced the producers to scramble around to find buyers for the natural gas which no one seemed to want so the companies could sell the crude oil which everyone wanted. So gas was for sale to anyone—at any price. Big pipelines were built from Texas, Kansas, Wyoming, Louisiana, Oklahoma, and other gas producing States to the large cities where natural gas was a much more desirable fuel than the coal that had been used for fuel.

This is where the Federal Commission came along. Government became concerned that once the cities were hooked, literally, on natural gas, the producers would raise gas prices. So the FPC's job was to see that the consumer got a fair shake. No gouging.

For awhile everything went well. Even though natural gas was so cheap no one could afford to drill for it, oil producers found plenty of gas accidentally as they drilled more and more oil wells. Coal mines either shut down or failed to expand because who wanted dusty, sweaty, dirty-burning coal when convenient clean-burning gas was plentiful and cheaper—about one-third the cost of other fuels on a B.t.u. basis?

So everyone who could burn gas—factories, office buildings, homes, even electrical generating plants—went all out for gas.

Now the plot thickens. Because cheap gas took over much of the market the prices of other kinds of fuel were depressed. Even crude oil could not compete, at least not when it was produced from the high-cost fields in the continental U.S.A.

So the oil producers began to look around. They found fabulous oil fields in other countries, especially in the area of the Persian Gulf. When this oil began to threaten the U.S. market and our security, Government again came to the rescue—this time by establishing the "oil

import program." The purpose of the oil import program was to hold down the level of imported crude to about 12 percent of U.S. consumption. It was felt that the country's national security would be endangered if we became dependent for more than that amount of imported crude. Also, the oil import program helped hold the price of domestically produced crude up to levels that made continue U.S. production profitable—at least for a time.

All this time, the United States and world demand for energy was growing—air conditioning, space heating, more and bigger trucks and planes and cars and trains. No one worried about running out of fuel.

Now enter the environmentalists. These are the folks who feel that anyone or anything that messes up the air or water or earth should be stopped.

Among the worst of the bad guys in the minds of environmentalists are those who dig oil wells in the ocean and occasionally spill some crude. In the same category are the coal miners who strip away the overburden to get at seams of coal and leave the countryside ravished. Not far behind are the utility companies who build power generating plants in places where danger from atomic leakage or pollution exists. A special degree of hatred was reserved by the environmental movement for the companies who wanted to build a hot oil line across the Alaskan tundra to bring north slope oil to consumers in the lower 48 States.

So while a bigger and bigger population was using more and more energy to live better and better, the domestic energy-producing industry was getting further and further behind.

Lacking profits comparable with those earned by investments in other types of endeavors, the domestic energy industry either languished or went to foreign countres where the oil fields had not been picked over. Fewer and fewer domestic wells were drilled, fewer and fewer new coal mines were opened, and construction of electrical generating plants and oil refineries was delayed or plans were abandoned.

Now enter the winter of 1972–73. Even though the country has 80 times as much crude oil in the ground as we used in 1971, there was not enough jet fuel for planes or diesel fuel for trucks and trains. Even though there is 800 times as much coal in the ground as we used in 1971, there was not enough available to turn electrical generators. Even though there is 100 times as much natural gas in the ground as we used in 1971, there was not enough available to heat homes and office buildings. Even though there is oil in oil shale deposits sufficient for several hundred years, none is being produced.

Plainly, something is wrong—and as is often the case, much of the blame rests upon Government.

Take the Federal Power Commission, for example. By holding down the price of natural gas to unrealistically low levels, it encouraged overusage of natural gas. Much of this convenient, clean-burning fuel is being burned under boilers because it is cheaper than other fuels. At the same time, because gas is so cheap, production of other fuels is discouraged.

Take Congress. Right when Government should have been providing an economic incentive to accelerate domestic oil and gas production, Congress hiked taxes on the energy industry by some $700 million annually. This tax increase simply meant $700 million less each year for developing new energy supplies.

Take the Treasury and Interior Departments. Right when drilling on the Outer Continental Shelf and other Federal lands should have been accelerated, the availability of public land for energy development was actually reduced. Also, the construction of the Alaskan Pipeline was postponed for years—and still is.

So here we are in this country—sitting on hundreds of years' supply of energy, but our fuel tanks are nearly empty. Here we are with spring upon us, and already there is talk of gas rationing for the coming summer.

To illustrate the problem, I would like to quote from a letter I received recently from Earl R. Gibble, president of the Gibble Oil Co. in Cushing, Okla. Mr. Gibble wrote:

> I am sure you are aware of our problems here in Oklahoma, particularly in the Cushing area, through Forrest Fuqua with Midland Cooperatives, Inc. Forrest has made so many trips to Washington to talk with you. Gibble Oil Company has always purchased all of its fuel from Midland. Now that they have closed the refinery, we will have to close our stations. We have a little over 200 stations in Oklahoma. We only have a 55% supply left in storage for the month of February and a 50% supply for March. At present we have no supply at all for April. That means over two hundred families will be without employment. We certainly hate to have to give up what we have worked 37 years to build.
>
> Now what we need is to find oil, and too, we need pipe lines laid into the Midwest whereby we can get some of this foreign oil. When we shut down the drilling in this part of the country some few years ago, we were afraid at the time that this was going to happen. We desperately need oil.

Also I would like to quote from a letter Mr. Gibble sent to all Gibble Gas dealers on February 6, 1973:

> We really have some bad news for you this time. This I hate to tell you, As you know, I have told you many times that we would have or I believed that we would have plenty of gas for the Gibble Gas stations. This is what the refinery has been telling me, that they were going to take care of Gibble Oil Company. Now they are running real short of crude and it is impossible to meet the needs for the refinery. The first we knew we were going to be short was the first of this month. Then we didn't know how much. The refinery officials here have just gotten back from a meeting with the officials in Minneapolis. On Saturday, February 3rd they had this report for us: We are cut back 45% on our January purchases. They were 3,170,391 gallons and the amount we will get for February will be 1,764,048 gallons. The amount we have for you is 55% of what you purchased in January.

What must we do? Two courses are open to us. We can continue on the path we have followed. We can continue to depress—politically, environmentally and economically—the production of energy from our abundant domestic resources. Following this course we will see the U.S.A. 50-percent dependent upon imported crude by 1975—the drain on our foreign exchange will be at least $9 billion per year. The danger and damage from this policy is plain. What if the supplying countries decide they would rather have their oil in the ground than our shrinking dollars—which they do not need—in the bank? What if the oil tankers are sunk at sea? What if other energy hungry countries out-bid us for the world's limited supply of oil? Over dependence on energy imports is an open invitation to economic chaos and national disaster.

Fortunately another course is open. We can adopt a national energy policy geared to make the country basically self-reliant. This is what we should have done long ago energywise. By doing so we avoid both the economic and national security dangers which accompany high levels of oil imports. By so doing we can assure future generations the same freedom to live and move and grow that we have had during our lifetimes.

Mr. President, the bill is not long and it is not complicated. Briefly, here is what the bill does. First, it enlarges the authority and the responsibility of the present Joint Committee on Atomic Energy to encompass all forms of energy. The invaluable public forum for debating and deciding Government policy relating to atomic energy which this committee provides will be extended to cover all energy forms.

At present no such forum exists. As a result much misinformation on energy matters has been inflicted upon energy users who have had no opportunity to have the full facts. This condition needs to be remedied immediately.

At present there is no official in the executive branch below the level of the President who has the stature and the clear authority to adequately deal with energy decisions. This bill creates such a position, an Under Secretary of Interior for Energy.

Since much of the Nation's remaining energy resources are located on public lands, immediate steps must be taken to make these deposits available for development if the Nation's energy needs are to be reliably met. The bill makes such action national policy. It further provides an additional option for leasing so that capital needed for exploration and development will not be unnecessarily immobilized. Total income to the Government will likely be increased.

The bill makes provision for a governmental commission to develop methods of reducing waste and improving the distribution of the Nation's scarce energy resources.

Mr. President, present unrealistic governmental regulation of domestically produced natural gas has caused wasteful overutilization and serious underproduction of this convenient clean burning fuel. This bill provides for the orderly deregulation of all natural gas prices. Market influences will quickly restrain wasteful usage of natural gas and accelerate gas production. Consumers, who presently suffer from shortages of domestically produced natural gas or who are paying exorbitantly high prices for

undependable imported liquified natural gas, will then be better served.

Mr. President, at the very time the Nation's energy requirements began to exceed our producing capability the Congress acted to remove or decrease one of the most important incentives for new exploration and development—the depletion allowance. Predictably, the rate of drilling new oil and gas well has declined.

The number of U.S. wells are as follows: 1956, 16,207; 1960, 11,704; 1965, 9,466; 1970, 7,693; 1971, 6,922, and 1972, 7,587.

This trend must be reversed or the Nation's present energy crunch will become a catastrophe.

This bill provides a new means of applying the depletion allowances to provide an extra incentive for exploring and developing the Nation's domestic energy resources.

In order to accelerate research on new and better means of finding and developing domestic energy resources, the bill provides for joint industrywide research efforts. The same provisions would allow joint or coordinated programs to desulfurize coal or crude oil.

Mr. President, as was done when atomic energy was first developed, provision is made to allow the Defense Department to contract for new sources of needed fuel at above current market prices. This provision will allow for construction and operation of demonstration plants to produce crude oil from coal or oil shale. Several years will be saved by getting these plants into operation now before the economics of the energy industry would normally justify such investments.

Mr. President, I ask unanimous consent that the bill may be printed in the RECORD, together with a section-by-section analysis of the bill.

There being no objection, the 6, 11 and analysis were ordered to be printed in the RECORD, as follows:

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "National Energy Resource Development Act of 1973".

TITLE I—CHANGE OF JOINT COMMITTEE ON ATOMIC ENERGY INTO JOINT COMMITTEE ON ENERGY

CHANGE OF NAME AND FUNCTIONS

SEC. 101. Chapter 17 of the Atomic Energy Act of 1954 (42 U.S.C. secs. 2251–2257) is amended—

(1) by striking out "ATOMIC" in the chapter heading;

(2) by striking out "ATOMIC" in section 201; and

(3) by striking out section 202 and inserting in lieu thereof the following:

"SEC. 102. AUTHORITY AND DUTY.—

"(a) The Joint Committee shall make continuing studies of problems relating to the development, use, and supply of energy for the purpose of making such recommendations to the Congress with respect thereto as it deems advisable in the interests of the national security, the public health and welfare, and the Nation's economic stability. In making such studies the Joint Committee shall hold periodic public hearings. The Commission and other agencies of the Government exercising responsibilities in matters pertaining to the development, use, and supply of all forms of energy, shall keep the Joint Committee fully and currently informed with respect to their activities in such matters,

"(b) All bills, resolutions, and other matters in the Senate or House of Representatives relating primarily to the Commission or to the development, use, or control of atomic energy shall be referred to the Joint Committee.

"(c) The members of the Joint Committee who are members of the Senate shall from time to time report to the Senate, and the members of the Joint Committee who are members of the House of Representatives shall from time to time report to the House (1) their findings and recommendations with respect to problems relating to the development, use, and supply of eenrgy, and (2) their recommendations, by bill or otherwise, with respect to matters within the jurisdiction of their respective Houses which are referred to the Joint Committee under subsection (b) of which otherwise relate to atomic energy and are within the jurisdiction of the Joint Committee."

TITLE II—OFFICE OF UNDER SECRETARY OF THE INTERIOR FOR ENERGY AND MINERAL RESOURCES AND NEW PROGRAMS IN THE DEPARTMENT OF THE INTERIOR

UNDER SECRETARY OF THE INTERIOR FOR ENERGY AND MINERAL RESOURCES

SEC. 201. (a) There is established in the Department of the Interior an Office of Under Secretary of the Interior for Energy and Mineral Resources. The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate.

(b) All functions of the Secretary of the Interior—

(1) on the date of enactment of this Act being carried out by the Assistant Secretary for Mineral Resources,

(2) pursuant to this title, and

(3) all other functions of the Secretary with respect to sources of energy,

shall be carried out through the Under Secretary of the Interior and Energy and Mineral Resources.

(d) Effective thirty days after the date on which the initial Under Secretary takes the oath of office after appointment pursuant to this section the office of Assitant Secretary for Mineral Resources in the Department of the Interior is abolished.

(e) Section 5314 of title 5 of the United States Code (relating to pay rates at level III of the Executive Schedule) is amended by inserting at the end thereof the following:

"(58) Under Secretary of the Interior for Energy and Mineral Resources."

CHANGE IN TYPE OF PAYMENTS FOR MINERAL LEASES ON FEDERAL LANDS

SEC. 202. (a) Notwithstanding any provision of law to the contrary, the Secretary of the Interior shall determine and put into effect, not later than ninety days after the date of enactment of this Act, with respect to mineral leases entered into or renewed thereafter, in addition to the present system of leasing, a system of payments for mineral leases on offshore Federal lands which is based on the amount of production under such leases, and which includes work performance requirements determined by the Secretary.

(b) Leases issued or renewed after enactment of this Act shall not be transferable nor may lessor acquire partners without the express consent of the Secretary of the Interior.

INCREASE IN MINERAL LEASING

SEC. 203. The Secretary of the Interior shall immediately undertake a program to increase the acreage under mineral leases on offshore Federal lands in the first year after the date of enactment of this Act to an amount equal to five times the amount of such acreage offered for lease in the year immediately prior to the date of enactment of this Act, and in each year thereafter to further increase such acreage under such leases to the extent possible.

COMMISSION ON ENERGY UTILIZATION AND LOGISTICS

SEC. 204. The Secretary of the Interior shall appoint an Advisory Commission on Energy Utilization and Logistics composed of representatives from energy production, processing, transportation and distribution industries, government regulatory agencies and environmental groups, in addition to others as may be necessary to make an investigation and study for the purpose of determining—

(1) means of making the optimum utilization of energy supplies, including but not limited to matters relating to energy supplies, conservation, and environmental protection, and

(2) means of improving energy logistics, including but not limited to flexibility in pipeline, water carrier and rail carriers systems and the relationship to energy processing and consuming centers. The Commission shall report the results of such investigation and study, together with its recommendations, to the Secretary and the Congress as soon as practicable.

(3) there is authorized to be appropriated for this purpose a sum not to exceed $500,000.

TITLE III—TERMINATION OF FEDERAL POWER COMMISSION'S AUTHORITY TO REGULATE CHARGES FOR THE PRODUCTION OR GATHERING OF NATURAL GAS

AMENDMENT OF NATURAL GAS ACT

SEC. 301. Section 5 of the Natural Gas Act (15 U.S.C. 717d) is amended by inserting at the end thereof the following new subsections:

"(c) Notwithstanding any other provision of this Act except as provided in subsection (e), the Commission shall establish, not later than ninety days after the effective date of this subsection, a minimum charge for the production and gathering of natural gas by a natural gas company. Such charge shall be equal to the average charge, during the calendar year 1972 for all domestically produced and gathered natural gas (not including any charge for transportation), increased by 50 per centum thereof. Effective one year after establishing such charge the Commission shall increase such charge by an amount equal to 25 per centum thereof, and effective one year after such increase the Commission shall establish an additional increase amounting to 25 per centum of the previous year's charge. A minimum charge pursuant to this subsection shall apply only to contracts for sale entered into or renegotiated during the period when such charge is in effect.

"(d) Effective three years after the initial establishment of a minimum charge pursuant to subsection (c), all authority of the Commission with respect to the fixing of the charge for the production or gathering of natural gas is terminated. During such three-year period the Commission shall exercise its authority with respect to the fixing of the charge for the production or gathering of natural gas in accordance with a plan for phased deregulation which makes adequate provision for the time, at the end of such three-year period, when all such authority of the Commission will terminate.

"(e) Effective on the date of enactment of this subsection all authority of the Commission with respect to the fixing of the charge for the production or gathering of natural gas which is brought into production or after such date is terminated."

TITLE IV—ADDITIONAL PERCENTAGE DEPLETION FOR INCREASED DOMESTIC PRODUCTION OF OIL AND GAS AND ELIMINATION OF PERCENTAGE DEPLETION FOR OIL AND GAS WELLS LOCATED OUTSIDE THE UNITED STATES

SEC. 401. (a) Section 613 of the Internal Revenue Code of 1954 (relating to percentage depletion) is amended by adding at the end thereof the following new subsection:

"(e) Increased Domestic Production of Oil and Gas.—

"(1) Additional percentage depletion allowed.—In the case of oil and gas wells located in the United States, the percentage specified in subsection (b) shall be increased by 1% for each 5% or major fraction thereof of increased production by the taxpayer during the taxable year up to a maximum of 10%. The limitation contained in the second sentence of subsection (a) shall not apply with respect to so much of the allowance for depletion for any well as is attributable to the application of the preceding sentence.

"(2) Increased production.—For purposes of paragraph (1), the percentage of increased production by a taxpayer during any taxable year is the percentage by which the amount of oil and gas produced by him from wells located in the United States during the taxable year exceeds the amount of oil and gas produced by him from wells located in the United States during 1972.

(b) The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

AMENDMENTS OF INTERNAL REVENUE CODE OF 1954 APPLYING TO INTERNATIONAL ASPECTS

SEC. 402. (a) Effective with respect to taxable years beginning during the one-year period beginning on the day after the date of the enactment of this Act, section 613(b)(1)(A) of the Internal Revenue Code of 1954 (relating to percentage depletion rate for oil and gas wells) is amended to read as follows:

"(A) oil and gas wells located in the United States (if located outside the United States, the rate shall be 15 percent);".

(b) Effective with respect to taxable years beginning during the one-year period beginning on the day after the close of the one-year period referred to in subsection (a), section 613(b)(1)(A) of such Code is amended by striking out "15 percent" and inserting in lieu thereof "10 percent".

(c) Effective with respect to taxable years beginning during the one-year period beginning on the day after the close of the one-year period referred to in subsection (b), section 613(b)(1)(A) of such Code is amended by striking out "10 percent" and inserting in lieu thereof "5 percent".

(d) Effective with respect to taxable years beginning after the close of the one-year period referred to in subsection (c)—

(1) section 613(b)(1)(A) of such Code is amended to read as follows:

"(A) oil and gas wells located in the United States;", and

(2) section 613(a) of such Code is amended by adding at the end thereof the following new sentence: "In the case of oil and gas wells located outside the United States, the allowances for depletion under section 611 shall be computed without reference to this section."

TITLE V—OTHER PROVISIONS TO PROMOTE DOMESTIC ENERGY SUPPLIES

EXEMPTION FROM ANTITRUST LAWS FOR CERTAIN AGREEMENTS

SEC. 501. (a) The anti-trust laws, as defined in section 1 of the Act of October 15, 1914 (15 U.S.C. 12) ond in the Federal Trade Commission Act (15 U.S.C. 41 et seq.) shall not apply to any joint agreement by or among persons engaged in the production or development of energy resources, including but not limited to secondary and tertiary recovery of crude oil or gas and extraction of sulfur from coal, natural gas and crude oil, if such agreement is solely for the purpose of carrying out research to improve such production or development.

(b) As used in this section "person" means any individual, partnership, corporation, or unincorporated association or any combination or association thereof.

(c) Nothing in this section shall affect any cause of action existing on the date of enactment of this section.

NATIONAL DEFENSE ENERGY RESOURCE DEVELOPMENT AND PRODUCTION INCENTIVE PROGRAM

SEC. 502. The Secretary of Defense shall enter into contracts or agreements that will guarantee for a 15-year period after enactment of this Act the purchase of low sulfur hydrocarbon liquids, produced from coal or oil shale up to the level of Department of Defense annual oil and oil products requirements plus normal reserves at a price adequate to insure the producer a reasonable return on investment.

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NATIONAL ENERGY RESOURCE DEVELOPMENT ACT OF 1973

TITLE I. CHANGE OF JOINT COMMITTEE ON ATOMIC ENERGY INTO JOINT COMMITTEE ON ENERGY

SEC. 101. Changes the Joint Committee on Atomic Energy to a Joint Committee on Energy with the following authority and duties:

(a) Make studies of problems relating to the development, use, and supply and make such recommendations to Congress as it deems is in the interests of national security, the public health and welfare, and economic stability.

(b) All legislation in the House and Senate relating to Atomic Energy or the Commission will be referred to the Joint Committee.

(c) Members of the Joint Committee will from time to time report to their respective Houses of Congress on the findings and recommendations of the Joint Committee.

TITLE II. OFFICE OF UNDER SECRETARY OF THE INTERIOR FOR ENERGY AND MINERAL RESOURCES AND NEW PROGRAMS IN THE DEPARTMENT OF THE INTERIOR

SEC. 201. Establishes an Undersecretary for Energy and Mineral Resources in the Department of the Interior who will carry out all functions of the Secretary and the Deparment as it relates to energy. Abolishes the Office of Assistant Secretary for Mineral Resources and places the new position at level III of the Executive Schedule relating to pay rates.

SEC. 202. Establishes in addition to the present system of leasing of federal lands a new system of payments for leases on offshore lands based on the amount of production under such leases. This new system would apply to all new leases made 90 days after enactment and to renewals of existing leases.

SEC. 203. Establishes a new leasing plan to increase the amount of leased land in the first year to 5 times the amount of land leased in the year preceding enactment of the Act. This goal should be continued for the succeeding years also.

SEC. 204. Establishes a Commission on Energy Utilization and Logistics in the Department of the Interior. Commissioners to come from representatives of the energy industry, government, agencies, environmental groups. The Commission will study and investigate means of making optimum use of supplies, and the best uses and systems of delivery of energy sources.

TITLE III. TERMINATION OF FEDERAL POWER COMMISSION'S AUTHORITY TO REGULATE CHARGES FOR THE PRODUCTION OR GATHERING OF NATURAL GAS

SEC. 301. Adds new subsections to Section 5 of the Natural Gas Act which provide for the setting by the Commission (FPC) of a minimum charge for natural gas within 90 days after enactment of the Act. This new minimum charge is to be equal to the average charge during 1972 for all domestically produced and gathered natural gas (not including transportation) increased by 50 percent. The following year after enactment the charge is to be raised 25 percent above the first minimum and the third year an additional 25 percent. All price fixing authority of the Commission is terminated other than the foregoing.

TITLE IV. ADDITIONAL PERCENTAGE DEPLETION FOR INCREASED DOMESTIC PRODUCTION OF OIL AND GAS AND ELIMINATION OF PERCENTAGE DEPLETION FOR OIL AND GAS WELLS LOCATED OUTSIDE THE UNITED STATES

SEC. 401. Allows for an additional one percent of depletion allowance for each 5 percent of increased production up to 10 percent. This provision applies to domestic production only.

SEC. 402. Repeals the depletion allowance for wells located outside the United States in a three year period. First year reduction from present 15 percent to 10 percent; Second year from 10 percent to 5 percent; Third year from 5 percent to zero (0).

TITLE V. OTHER PROVISIONS TO PROMOTE DOMESTIC ENERGY SUPPLIES

SEC. 501. Exempts from antitrust laws certain activities of parties when those activities relate to research and development of way to improve energy use and recovery.

SEC. 502. Authorizes the Secretary of Defense to enter into contracts with companies who will produce low sulphur hydrocarbon fuels from coal and/or oil shale.

Mr. BELLMON subsequently said: Mr. President, I asked unanimous consent that the bill I introduced earlier this morning be referred to the Committee on Interior and Insular Affairs. Because of the fact that other committees may be involved in some of the issues. I hope they will be given an opportunity to review the bill as the hearings progress.

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

By Mr. BAKER:

S. 1163. A bill to provide for a program for the regulation of surface mining of coal to protect the environment, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

COAL STRIP MINE CONTROL ACT OF 1973

Mr. BAKER. Mr. President, I send to the desk and request appropriate referral of a bill to establish a Federal-State partnership to provide control over the environmental impact of coal surface mining in the United States, to be known as the Coal Strip Mine Control Act of 1973.

The bill I send to the desk is modeled after S. 3000, the Coal Strip Mine Control Act of 1972, which Senator John Sherman Cooper and I introduced in December of 1971. While the bill recognizes the need to balance environmental and energy concerns, it provides the soundest regulatory approach to the abuses of strip mining. This approach embodies the following key differences from other pending bills.

First, it vests regulatory authority in EPA, an agency with proved environmental regulatory competence, rather than in a department that has the conflicting purposes of promoting and regulating the minerals industry.

Second, it zeroes in on the major source of abuse in mining, the strip-mining of coal, rather than dissipating Federal and State efforts to cover a wide range of activities reaching to every local sand and gravel pit.

Third, it sets up an interim Federal program which will take effect 9 months after enactment—far sooner than any of the other proposals now before the Senate.

Fourth, it sets up a program to begin the reclamation of previously mined "orphan lands."

At the time we introduced S. 3000 over a year ago, Senator Cooper and I stated that the chief hallmark of the battle to bring strip mining under control was time. The situation then as now in the Appalachian region borders on disaster. I sincerely hope that we will see action on this legislation early in this session.

Coal production in this country is an extremely important industry and demand for increased power in years to come will expand markets for this mineral. But mining for coal in recent years has placed a substantial environmental burden upon the already economically depressed Appalachian region and if unchecked will result in the degradation of thousands of acres of lands in the West. It is imperative that the economic benefits and environmental hazard of coal surface mining be brought into balance.

The last Congress saw many programs advanced representing a broad spectrum of approaches to this problem. Some of these failed to take full cognizance of the serious environmental disruption caused by coal surface mining. Others failed to recognize the importance of coal production to fuel the power demands of the country. I can sympathize with those who would ban coal surface mining, for I have seen first hand the ruined landscapes and polluted streams. But I cannot advocate an approach to control of this problem which would lead us into other equally serious problems.

The bill which I have just sent to the desk contains a permit program administered on an interim basis by the Federal Government to insure an immediate and timely response to the problem and then delegated to the States as they establish the machinery and power to deal with the problem. The bill requires that the regulatory scheme deal with all aspects of mining and reclamation—including blasting and road building practices—to insure that landslides, erosion, and other offsite impacts of operations will be controlled, and that reclamation of the site will substantially restore both the original topography and vegetative cover. To assure that these requirements are carried out, a carefully monitored permit program is established, providing that no permit for mining shall issue if there is probable cause to believe that reclamation of the site as proposed by the applicant cannot be achieved or if the mining operation will pose an undue hazard to adjacent lands or waters or if the mining would result in the destruction of a scienic resource valuable to the area.

Additionally before any permit can issue under this program a performance bond must be filed in an amount sufficient to reclaim the site should the permittee default in his obligation. The bond remains in effect throughout operations and until reclamation, including revegetation, is complete.

While the bill necessarily leaves much of the detail of reclamation to regulation, it specifies several stringent standards.

Reclamation of the site must leave the land in substantially the same use and contour as existed prior to mining. Obviously revegetation will require many years to completely repair to the same condition as existed at the commencement of mining. The bill demands that revegetation must be of plants and trees indigenous to the area and must have achieved sufficient stability to be self-sustaining. Offsite storage of spoil—long the prime cause of landslides and siltation—is allowed only to permit storage of excess spoil material and for construction of necessary drainage. The bill demands careful monitoring of such storage to insure that storage sites are rapidly stabilized and vegetated.

Under the bill existing State controls over coal surface mining would continue after enactment for a period of 6 months. During which time the Administrator of the Environmental Protection Agency would develop the regulations and guidelines for the program and a permit mechanism to effectuate these standards. After this initial 6 months no surface mining for coal could be carried on without a permit issued by EPA. Within 8 months after the promulgation of guidelines by the EPA—for which a period of 3 months is specified—the States shall submit programs covering the industry in that State. The Administrator must within 4 months thereafter either approve or disapprove the plan submitted. If the State program or a portion thereof is approved the Administrator may delegate to the designated State agency all or a portion of his authority under the bill.

As is apparent from the foregoing the Administrator of the permit program is vested with a great deal of discretion. He must make very difficult decisions bearing heavily upon the environmental success of the program. In 1970, the administration, with the consent of the Congress, saw fit to create an agency to reflect the great public concern and care for our endangered ecology. If we are to fulfill the purpose of that agency we must take care not to fragment environmental responsibility among the various mission-oriented departments, which are confronted by a multiplicity of functions and subject to intense and often conflicting pressures. For example, the Interior Department was criticized severely in a GAO report only last year for its failure to protect adequately against strip mining abuses on lands it administers. By way of contrast EPA not only is free from such potential conflicts, but is able to dovetail a stripmining control program with its present efforts to control water and air pollution from mining and to explore the use of mines for solid waste disposal.

For these reasons the Environmental Protection Agency is the only appropriate choice for administration of a surface mine program which has the goal of protecting the environment from dangerous mining techniques while considering the Nation's energy needs.

The real heart of the challenge is the establishment of new and improved techniques for surface mining and reclamation. For too many years the techniques employed in coal surface mining have been determined only by expedience. Under the existing philosophy of contour surface mining, that technique is best which moves the most overburden off the coal in the fastest and cheapest way. On many operations in the Appalachian Mountains overburden has been blasted and pushed down steep slopes into roads and waterways below causing pollution of streams, destruction of wildlife habitat, permanent destruction of the landscape, and often threatening homes and domestic water supplies. In contour mining the use of gravity to eliminate overburden must be stopped. The employment of techniques presently under study will permit the continuance of contour mining but without the problems presently associated with it.

One such new technique—the so-called double-box cut method of mining—is presently being studied by the Tennessee Valley Authority in an area of my State extensively despoiled by previous mining. This spring I intend to view the results of the experiment. Hopefully this technique will prove to be one way of meeting the environmental problem in an economically sound manner.

I am convinced that those who decry environmental demands as a threat to the industry possess little faith in the ingenuity of American enterprise. The standards in the bill I have introduced demand no more than careful planning and employment of long available earth-moving techniques. Hopefully, the industry can and will move beyond these as advanced technology is developed.

The lesson of the past is very clear. We cannot afford to sacrifice our environment to the demands of economy. The chief challenge of the future is the balancing of pressing economic, social, and environmental needs and the development of policies that insure that we do not destroy the quality of life in the quest for energy. It is with that intent that I introduce this bill.

Mr. President, another legacy of past years of unregulated strip mining is millions of acres of devastated, ruined land. In addition to being an eyesore and burden to the economy of the immediate area where mining is carried on, these orphaned lands contribute millions of tons of siltation to the streams and rivers of the Nation annually. While the chief thrust of our endeavor to meet the issue of strip mining must be to bring present practices under control, no program would be complete which did not deal with the troublesome problem of discontinued and abandoned operations.

For this reason, I have added a title to the bill at the desk giving the Soil Conservation Service of the Department of Agriculture the power to render technical assistance and grants of up to 75 percent of project costs to soil conservation districts across the Nation for the purpose of ameliorating problems resulting from orphan surface mine sites.

There are over 2 million acres of nonfederally owned surface mined lands in the United States needing conservation treatment. In their present state, these areas are nonproductive, eroding, and gullied liabilities to the communities, counties, States, and the Nation. The annual load of sediment produced by erosion from these abandoned surface mined areas is estimated to range up to 200 tons per acre. This sediment is being deposited on adjacent areas and in downstream channels and reservoirs. In addition, acid draining from the mined areas in some parts of the country is contaminating water in streams and reservoirs. This erosion, sediment, pollution, and contamination is restricting the economic base of the people in the affected areas by unnecessarily limiting the available life sustaining soil and water resources.

The present efforts to rehabilitate old surface mined areas are inadequate. Damages to adjacent lands, water, fish, wildlife, and beauty continue. Much needs to be done and can be done to restore these areas and make them assets to the communities where they exist and to reduce their damaging effect on other areas. The incentive of Federal participation is needed to stimulate and assist local action. The necessary local organizations, soil conservation districts, already exist and are ready to participate in sponsoring needed improvements when Federal and State assistance is available.

An excellent example of what can be done to reclaim lands affected by mining comes from West Virginia. Soil conservation districts there have been entering into contracts with mine operators to carry out reclamation treatments for nearly 20 years. Between 1954 and 1971, there were 4,948 plans developed covering 106,706 acres of affected lands. Of this acreage, 80,916 had been planted to protective vegetation.

But, this is only an example of what the unique cooperative efforts of soil conservation districts and the Soil Conservation Service have accomplished on this important environmental problem. A USDA news release of September 14, 1972, and accompanying data by States shows how effective the work of this Federal agency and local units of State government have been.

I ask unanimous consent that the certain pertinent material be printed in the RECORD.

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

SCS HELPS TURN HAZARDOUS MINE SPOILS INTO USEFUL LAND

WASHINGTON, September 14.—Surface-mined land can be transformed from a hazardous eyesore into acreage useful for many farm or community purposes, USDA Soil Conservation Service Administrator Kenneth E. Grant said today.

More than 10,000 private landowners reclaimed over a third of a million acres from 1965–71 alone, Mr. Grant said. He cited recent SCS reports from each state showing that landowners and mine operators had reclaimed a total of 338,000 acres in the seven-year period.

"Their work has resulted in significant reductions in soil erosion, sedimentation, and acid pollution of streams from these sites," Mr. Grant said. "They have added to the beauty of the countryside. And they have helped turn useless land into valuable property for forest, pasture or range, wildlife habitat, recreation areas, crop production, building sites, and other uses."

Mr. Grant stressed that much more work needs to be done, since more than 4 million acres had been disturbed as of January 1, 1972, in surface-mining operations to harvest coal, sand and gravel, and some 40 other commodities.

"More than 90 percent of this land is privately owned," Mr. Grant said. "It is intermingled with farm, ranch, forest and other land in rural and suburban America—on which SCS already is giving conservation help through districts and in watershed projects and resource conservation and development projects."

Of the total acreage disturbed, Mr. Grant said that 2,181,200 acres needs land shaping, plantings, or water-control structures to prevent further land and water damage. The remaining 1,823,700 acres already have been reclaimed or have stabilized themselves over a period of years. Mr. Grant said that surface mining has been practiced for more than 100 years.

"About 15 percent of the land needing reclamation has been treated in the last seven years," Mr. Grant said. "This is significant progress when you consider that to date there is no formal program for technical and financial help on these problem sites on private land. District cooperators have undertaken mined-land reclamation as part of their overall conservation activities."

Mr. Grant said that about half of the States now have statutes calling for some form of surface-mined land reclamation work. Their provisions vary widely.

SCS participation in surface-mined land restoration began in the 1930's, Mr. Grant said. In addition to recommending vegetative and mechanical measures to restore a mined area, SCS also is active in developing new plants that can survive under the difficult slopes and acid conditions found on most surface-mined land. One of the 20 SCS plant materials centers, at Quicksand, Ky., was established specifically to locate, study, and increase the supply of plants for surface-mined land. Several other centers also are turning out useful plants. Among those found especially well suited are deertongue grass, switchgrass, 'Cardinal' autumn-olive, 'Chemung' and 'Emerald' crown-vetch, 'Latcho' flatpea, 'Arnot' bristly locust, 'Rem' Red Amur honeysuckle, Japanese bush lespedeza, and weeping lovegrass.

"These plants are well adapted to mined-land conditions and provide a higher percentage of surface cover in a shorter period of time than trees," Mr. Grant said. "They also provide excellent food and cover for many species of wildlife. And their flowers and foliage have a high esthetic value."

In addition to the new figures announced today, more details about surface-mined land problems and opportunities are in a 1971 SCS publication, MP–1082, "Restoring Surface-Mined Land." Copies are available from local SCS offices or for 15 cents from the U.S. Government Printing Office, Washington, D.C. 20402.

STATUS OF LAND DISTURBED BY SURFACE MINING IN THE UNITED STATES, AS OF JAN. 1, 1972, BY STATE[1]

[Thousand acres]

State	Land requiring reclamation	Land not requiring reclamation	Total land disturbed
Alabama	127.9	43.1	171.0
Alaska	4.4	6.7	11.1
Arizona	29.7	28.3	58.0
Arkansas	17.1	6.6	23.7
California	69.7	109.5	179.2
Colorado	41.3	14.8	56.1
Connecticut	12.2	5.1	17.3
Delaware	2.2	1.9	4.1
Florida	196.0	58.8	254.8
Georgia	28.1	13.1	41.2
Hawaii	.1	.1	.2
Idaho	16.0	8.1	24.1
Illinois	66.3	102.2	168.5
Indiana	25.0	120.7	145.7
Iowa	32.4	18.3	50.7
Kansas	67.4	13.5	80.9
Kentucky	58.0	187.4	245.4
Louisiana	26.4	9.8	36.2
Maine	26.4	13.2	39.6
Maryland	25.0	12.7	37.7
Massachusetts	30.7	17.8	48.5
Michigan	72.4	22.0	94.4
Minnesota	52.6	72.7	125.3
Mississippi	22.0	10.3	32.3
Missouri	93.9	18.5	112.4
Montana	22.0	9.3	31.3
Nebraska	12.5	10.5	23.0
Nevada	21.7	12.7	34.4
New Hampshire	4.4	4.3	8.7
New Jersey	17.6	10.8	28.4
New Mexico	13.3	8.8	22.1
New York	40.0	18.0	58.0
North Carolina	27.1	15.7	42.8
North Dakota	27.5	17.1	44.6
Ohio	191.6	162.1	353.7
Oklahoma	5.0	25.0	30.0
Oregon	6.6	2.8	9.4
Pennsylvania	240.9	201.5	442.4
Rhode Island	2.6	1.2	3.8
South Carolina	20.0	15.0	35.0
South Dakota	16.0	18.2	34.2
Tennessee	40.0	78.9	118.9
Texas	136.8	34.0	170.8
Utah	3.4	2.8	6.2
Vermont	4.2	2.6	6.8
Virginia	33.0	48.8	81.8
Washington	5.5	3.6	9.1
West Virginia	100.0	170.9	270.9
Wisconsin	35.3	27.2	62.5
Wyoming	11.0	6.7	17.7
Total	2,181.2	1,823.7	4,004.9

[1] Compiled from estimates provided by State offices of the Soil Conservation Service, USDA.

MINED-LAND RECLAMATION WORK IN CONSERVATION DISTRICTS,[1] 1965–71 INCLUSIVE

State	Number of districts involved	Number of cooperators	Area reclaimed (thousand acres)
Alabama	49	205	43.1
Alaska	1	0	.1
Arizona	5	11	4.2
Arkansas	9	14	.5
California	42	58	7.5
Colorado	56	68	2.3
Connecticut	6	14	.3
Delaware	3	28	.8
Florida	12	20	12.5
Georgia	19	169	4.9
Hawaii	0	0	0
Idaho	52	60	1.9
Illinois	60	120	31.1
Indiana	15	223	20.4
Iowa	29	169	3.5
Kansas	42	371	4.3
Kentucky	39	377	14.9
Louisiana	12	141	1.3
Maine	16	100	.7
Maryland	20	139	3.7
Massachusetts	15	200	2.5
Michigan	81	274	2.5
Minnesota	59	121	6.4
Mississippi	14	34	2.0
Missouri	19	50	1.5
Montana	25	150	1.6
Nebraska	62	240	5.4
Nevada	12	2	.3
New Hampshire	10	50	.2
New Jersey	12	18	.8
New Mexico	7	19	.5
New York	56	86	1.2
North Carolina	51	173	1.7
North Dakota	39	375	2.5
Ohio	42	350	10.5
Oklahoma	6	10	1.5
Oregon	15	30	.2
Pennsylvania	50	500	28.0
Rhode Island	3	3	0
South Carolina	8	6	.8
South Dakota	40	700	1.0
Tennessee	18	213	9.1
Texas	107	1,394	13.1
Utah	7	8	.3
Vermont	0	0	0
Virginia	1	100	26.0

MINED-LAND RECLAMATION WORK IN CONSERVATION DISTRICTS,[1] 1965–71 INCLUSIVE—Continued

State	Number of districts involved	Number of cooperators	Area reclaimed (thousand acres)
Washington	1	1	0
West Virginia	11	2,500	55.2
Wisconsin	72	314	4.7
Wyoming	7	10	.5
Total	1,337	10,218	338.0

[1] Data compiled by Soil Conservation Service, USDA, September 1972.

Mr. BAKER. Mr. President, this widespread interest on the part of private landowners prior to the recent emphasis on the problems associated with mining is significant. It is strong evidence that a sound Federal-State-private program will be locally supported.

Reclamation and conservation treatment of surface mined lands can be accomplished most effectively and efficiently as part of a total soil and water conservation program on privately owned lands. These lands are an integral part of the drainage area in which they are located and their treatment cannot be separated from other lands in the drainage area on which the Department of Agriculture is already giving technical and financial assistance. In short, the Federal organization already exists with longstanding working relationships with State and local governments and private landowners to get on with the job.

The Soil Conservation Service furnishes technical assistance through soil conservation districts to individual landowners and operators under the Soil Conservation Act of 1935. This agency and other USDA agencies also provide both technical and financial assistance for treating surface mined areas in small watershed projects and resource conservation and development projects that are high sediment producing sources. These programs are helpful and have produced good results as illustrated above, but they have not been adequate to treat the many critical areas in the Nation to which this bill would be applicable.

Experience gained under the existing programs has proven that mined areas and the associated spoil banks can be effectively treated. The cost of applying vegetative practices alone, however, will vary from $100 to over $300 per acre. Because of the nature of the spoil, the establishment of vegetative cover is unusually slow. May years will elapse before landowners can expect to realize onsite benefits. Also, in many instances, some structural type measures such as grade stabilization and gully control structures will be required. Hence, on many properties, the onsite benefits cannot be expected to equal the treatment costs. Effective offsite benefits from sediment reduction and pollution control requires action on sizable areas of land constituting small drainage areas or watersheds. Individual efforts are ineffective unless they are a part of a coordinated plan. Group action is, therefore, the logical and practical approach. Federal technical and financial assistance is necessary to activate this work on an adequate scale.

The need for treating the problems on surface-mined lands falls naturally into two categories: Reclaiming lands presently needing conservation treatment and preventing damages on lands to be mined in the future. Here is a task for the private citizen, for industry, and for local, State, and Federal governments. Surface-mined lands are intermingled with forested, agricultural, and other rural lands. This makes it imperative that long-range solutions for surface-mined land reclamation be based on total land-use planning. Plans for treating, developing, and using surface-mined lands must be consistent with plans of adjacent lands and be applied on a watershed basis. Plans must provide for sound multiple use of forest lands, croplands, and grasslands, and should emphasize improvements for fish, wildlife, and outdoor recreation. The impact of land use and treatment on water must receive major attention. It cannot be overemphasized.

Preventing damages on lands and waters to be mined in the future will be dealt with in other bills before the Congress and the expertise of the Department of Agriculture and soil conservation districts should be used in that effort. This bill proposes an immediate attack on an environmental problem that has persisted far too long—cleaning up the past damages.

Since surface mining has been a practice in this country for more than a hundred years, most of the areas needing reclamation were mined prior to the passage of laws requiring reclamation. Twenty-eight States now have laws, some enacted rather recently, which require the restoration of newly surface-mined areas. Such laws do not, however, provide for the reclamation of the large area of old surface-mined lands, sometimes referred to as orphan lands. There is, therefore, a need now for a new approach, a new authority, administered in conjunction with the Department of Agriculture's land and water conservation programs so as to give unified direction to the application of a wholly coordinated program for reclamation and utilization of these surfaced-mined lands.

The most recent reliable information on costs of reclaiming surface-mined lands is in the report "Surface Mining and Our Environment" resulting from the national study of surface mining completed under Public Law 89–4. This report shows two levels of cost—one for basic reclamation and the other for rehabilitation: Basic reclaimation consists of remedial measures necessary to alleviate or eliminate conditions resulting from surface mining, such as erosion, flooding, water pollution, damage to acquatic and wildlife habitat, barriers to access, and hazards to public safety. Rehabilitation comprises land development for parks and recreational areas, residential and industrial sites, scenic improvements, and other specialized land uses contributing to the economic potential, or social improvement of areas.

The report shows costs of $360 per acre for basic reclamation and $600 per acre for rehabilitation. This latter cost includes the amount required for basic reclamation plus the additional costs to develop the land for specialized uses. Although these cost estimates are averages, they are adequate for estimating the costs of applying conservation treatments to the 2.2 million acres of privately owned lands in need of attention. The proportion of these costs to be borne by the Federal and private sectors should be based on the degree of public benefits resulting from applying the treatments. As a general rule, the elimination or abatement of offsite damages will require and justify a higher degree of Federal participation in costs.

A 20-year program for applying basic reclamation on the 2.2 million acres of privately owned lands now needing treatment will cost approximately $36,500,000 annually. If the Federal share of this cost is 75 percent, the annual Federal cost will be approximately $27 million.

It is proposed that the program go forward in a sound and orderly manner with priority assigned to areas most critically in need of reclamation where local interests are ready to assume their responsibilities under the program.

This proposed legislation would authorize Federal assistance in developing and carrying out a comprehensive technically sound plan for the reclamation and rehabilitation of non-federally owned strip- or surface-mined areas. It would assure proper treatment of the areas by providing technical and financial assistance to plan and install needed measures. This would result in reduced erosion and subsequent sedimentation; reduce the contamination of streams and reservoirs by mine acids; improve the habitat for fish and wildlife; contribute to the restoration of productivity and beauty of affected areas; and create a healthful atmosphere for needed recreation, thereby improving the economic base of the people living in the area and substantially benefiting downstream land and water resources and improvements.

The program would produce specific benefits such as:

First. Stabilizing the areas and preventing sediment from washing onto adjacent lands and sediment deposition in the stream channels and reservoirs.

Second. Reducing water pollution resulting from sediment and acid drainage from affected areas.

Third. Reducing air pollution—fumes and smoke from burning coal and refuse in abandoned areas.

Fourth. Eliminating or controlling attractive nuisances created by deep pits and steep spoils which often constitute safety hazards.

Fifth. Restoring much of the natural beauty of the area.

Sixth. Restoring desirable habitats for fish, birds, and wildlife.

Seventh. Restoring the productive functions of watersheds and stream courses damaged by mining in streambeds.

Eighth. Encouraging the States, not having such laws, to enact legislation to assure reclaiming of newly surface mined areas.

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. 1163

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 "Coal Strip Mine Control Act of 1973."

The Congress finds that the practice of surface mining for coal in the United States has resulted in the devastation of vast areas of land, in substantial environmental degradation, in an economic and social hardship on the people of these areas and in the loss of significant scenic and natural resources.

The Congress further finds that a program of uniform regulation of surface mining of coal must be enacted to insure against these threats and that such regulation must permit the surface mining of coal only when such mining can be undertaken in a manner which will prevent environmental degradation.

TITLE I—FEDERAL INTERIM PROGRAM

REGULATION

SEC. 101. (a) On and after the date of the enactment of this Act, any coal surface mine the products of which enter commerce or the operations of which affect commerce shall be subject to the provisions of this Act.

(b) On and after two hundred and seventy days from the enactment of this Act, no person shall engage in or carry out any activity involving the extraction of coal from a surface mine subject to the provisions of this Act by surface mining methods, unless such person has first obtained a permit issued in accordance with the provisions of this Act.

CRITERIA

SEC. 102. (a) Within ninety days following the enactment of this Act, the Administrator of the Environmental Protection Agency in consultation with the Secretary of Agriculture and the Secretary of the Interior shall promulgate (and from time to time thereafter revise) such regulations as he deems necessary in connection with the surface mining of coal setting forth—

1. the criteria for reclamation programs required in connection with the issuance of a permit to engage in the extraction of minerals by surface mining methods;

2. criteria on necessary procedures, methods and techniques to be followed in the operation of surface mining methods pursuant to a permit issued in accordance with the provisions of this Act;

3. criteria on land policy identifying zones where, due to physical characteristics areas within such zones cannot be adequately reclaimed, surface mining shall not be permitted;

4. criteria on procedures, methods and techniques to be used in connection with the use of explosives in strip mining operations subject to this Act; and

5. criteria on regulating road construction necessary in connection with surface mining operations subject to this Act.

(b) Such regulations shall insure, among other things that—

1. reclamation of the site will return said land to a use and contour substantially as it existed prior to commencement of operations or to a different use or contour if proposed in the application for permit if the Administrator determines that such alternative plan is at least as environmentally protective as restoration of the original contour; where an application is made to mine an abandoned, previously mined site, in order to encourage restripping the Administrator may approve a reclamation plan proposing a different final use or contour, if he determines that restoration of the original use and contour is impracticable and that the proposed reclamation plan will provide control of offsite environmental impacts and will return the site to a stable and useful condition;

2. mining and reclamation operations will be in compliance with all applicable Federal and State air and water pollution control standards and will control or prevent erosion, flooding, and pollution of water, release of toxic substances, accidental land or rock slides, damage to fish or wildlife or their habitat, or public or private property, waste of mineral resources, destruction or loss of a valuable scenic resource, and hazards to public health and safety; and

3. techniques employed in mining and reclamation under this Act conform to the best practicable technology for operations upon land of like nature and character.

4. permanent off-bench storage of spoil material will not be permitted, except as necessary for construction of drainage ways from and across the site and for the storage of spoil material not needed for reconstruction of the contour as provided in subsection 1 of this section; all off-bench storage areas shall be designed and constructed to meet the requirements of subsection 2 of this section; all permanent off-bench spoil storage areas shall be stabilized and revegetated to the same extent and in the same manner as required for on-site reclamation.

5. the process of reclamation shall progress as the surface mining progresses, at such a distance behind the extraction of minerals as the Administrator shall by regulations prescribe in accordance with the provisions of this title.

6. revegetation of the site, and all off-bench spoil storage areas will provide both immediate and permanent control of erosion and will establish self-sustaining growth of plants and trees indigenous to the area.

(c) Any regulation issued by the Administrator under this section shall be subject to judicial review in the District Court for the District of Columbia upon the filing of a petition in such court praying that the regulation be modified or set aside in whole or in part. The commencement of such a proceeding shall not, unless specifically ordered by the court, operate as a stay of the Administrator's decision.

PERMITS

SEC. 203. (a) On and after the date of enactment of this Act and until a State regulatory program is in effect under title II of this Act, permits for operations subject to the provisions of this title shall be issued by the Administrator pursuant to regulations issued under this section.

(b) Within ninety days following the enactment of this Act the Administrator shall issue regulations specifying the forms upon which applications for permits may be made. Such regulations shall specify the information which the Administrator shall require in order to make the determinations necessary to insure compliance with the intent and purpose of this Act, and shall include a map and plan of the proposed operation, and complete plan of reclamation for the area of land to be affected, including, but not limited to, the method of strip mining, engineering technique, the character and description of the equipment, prevention of harmful surface water drainage, prevention of water accumulation in the pit, backfilling, grading, resoiling, revegetation, a time schedule for completion of each of the phases, an estimate of the cost of reclamation per acre, and the written consent of the owner of the surface of the land upon which the applicant proposes to engage in mining operations to entry upon such land by the applicant or his agents and any officers, employees, or agents of the Environmental Protection Agency, or any Federal officer or employee designated by the Administrator during all phases of mining and for a period of five years after the operation is completed or abandoned for the purpose of reclamation and inspection.

(c) Insofar as is practicable in States where surface mining regulatory programs are in effect the Administrator shall utilize available State personnel in the implementation of the Federal interim permit program.

RENEWAL

SEC. 104. (a) Any holder of a valid surface mining permit issued pursuant to this Act who wishes to continue the operation beyond the original permit shall make application for said renewal within sixty days prior to the expiration of said permit. Said application shall contain such information as the Adminstrator may prescribe by regulation, and shall include—

(1) a listing of any claim settlements or judgments against the applicant arising out of or in connection with its operation under said permit;

(2) written assurance by the person issuing the performance bond in effect for said operations that said bond continues and will continue in full force and effect for any extension requested in said application.

APPROVAL

SEC. 105. (a) Upon the filing of an application in accordance with section 103 of this Act, or of an application for renewal under section 104 of this Act, the Administrator shall, after opportunity for public hearing, investigate and approve or disapprove the application. No permit application or renewal shall be approved if the Administrator finds on the basis of the information set forth in the application, or from information available to him, that—

(1) there is probable cause to believe that the reclamation of the area of affected lands covered by the application cannot be achieved;

"(2)(A) the surface mining operations covered by such application would pose undue hazards to adjacent lands or waters; or

"(B) the strip mining would result in the destruction or loss of a scenic resource valuable to the area or region; or

(3) the carrying out of the surface mining operations covered by such application would be in violation of any provision of this Act or any regulation issued pursuant thereto; or

(4) The person filing such application is in violation of any provision of this act or any regulation issued pursuant thereto;

(5) The person has forfeited a bond or partial bond for performance or was a principal of any past partnership, association, corporation, firm, subsidiary of a corporation, or other organization which forfeited a bond or partial bond for performance in accordance with any past permit issued pursuant to this Act or pursuant to any State program for the regulation of coal surface mining.

(6) The proposed plan of mining and reclamation would render practically or economically inaccessible a significant known reserve of coal or would otherwise result in the wasting of a significant amount of coal.

(b) No permit application shall be approved unless the plain of operation and reclamation required under section 103(b) of this title is approved. The Administrator may approve a plan of operation and a reclamation plan that complies with the requirements of this Act and regulations issued pursuant thereto. Nothing in this Act shall be construed as prohibiting the Administrator from approving any reclamation plan which provides for the retention of certain access roads.

(c) The Administrator shall notify the applicant by registered mail within sixty days after the receipt of the complete application whether the application has been approved. If the Administrator fails to notify the applicant within the prescribed period, the applicant may request in writing a hearing before the Administrator. The hearing shall be held within thirty days after receipt of the request.

(d) If the application for permit or renewal

is approved, the Administrator shall determine the amount of bond per acre that the operator shall furnish before a permit or renewal is issued. The amount of bond shall be stated in the notice of approval sent to the applicant.

(e) If the application is not approved, the Administrator shall state the reasons for its disapproval and may propose modifications, delete areas, or reject it entirely. If the applicant disagrees with the decision of the Administrator, he may request in writing a hearing before the Administrator. The Administrator shall hold the hearing within thirty days after receipt of the request. Judicial review of such decisions shall be in the United States District Court for the district in which operations are proposed.

BONDING REQUIREMENTS

SEC. 106 (a) After a permit application has been approved, but before a permit is issued, the applicant shall file with the Administrator the bond for performance, on a form prescribed and furnished by the Administrator, payable to the Administrator and conditioned that the applicant shall faithfully perform all the applicable requirements of this Act and regulations issued pursuant thereto. The amount of the bond required for each permit shall depend upon the reclamation requirements, and shall be determined by the Administrator. Liability under the bond shall be for the duration of surface mining at the operation and for a period of five years thereafter, unless released sooner as provided in section 111 of this title. The bond shall be executed by the applicant and a corporate surety licensed to do business in the State where such operation is located; except that the applicant may elect to deposit cash, negotiable bonds of the United States Government or such State, or bonds of the United States Government or such State, or negotiable certificates of deposit having a par value equal to or greater than the amount of the surety bond and issued by any bank organized or transacting business in the United States. Cash or securities so deposited shall be deposited upon such terms as the Administrator may prescribe.

(b) After the permit application has been approved, and the bond or deposit filed, the Administrator shall issue a permit to the applicant.

(c) Any permit issued pursuant to this title shall be valid for a period of one year following its date of issuance. No surface mining operations shall be carried out pursuant to such permit unless such permit has been registered with the Register of Deeds (or other comparable officer) in such county or other political subdivision in which lands affected by such permit are located. Such registration shall include the name and address of the person to whom such permit was issued and, if such person is a corporation or other entity, the name and address of its registered agent, and a brief description of the lands upon which operations are permitted.

NONCOMPLIANCE

SEC. 107. (a) In any case in which the Administrator determines that any person holding a valid, unexpired permit issued pursuant to this Act has failed or is failing to comply with the provisions of this Act or any regulation issued pursuant thereto or the terms of any such permit, the Administrator shall notify such permit holder in writing that he is in noncompliance and order the immediate termination of any operation in violation of the provisions under which the permit issued and that he shall have fifteen days (or such additional period as the Administrator in his sole discretion may prescribe) within which to repair damages caused by said operation. If upon the expiration of such period contained in that notification such person has not so complied or if he shall fail or refuse to terminate said operations as ordered by the Administrator, the Administrator shall immediately take action in accordance with the provisions of section 110 of this Act, to revoke such permit. If the Administrator determines that such person, prior to the date of expiration of such period, is in compliance with the provisions of this Act and such regulations and terms with respect to which he was so notified, he shall take no action with respect to revoking such permit and such noncompliance shall be deemed not to be a violation for purposes of sections 105 and 110. The provisions of this section requiring notification of noncompliance shall not apply in any case involving fraud or any willful or knowing violation on the part of such permit holder; in all such cases an order to cease operations shall be issued and action taken under section 110 immediately.

REPORTS

SEC. 108. (a) On or before the expiration of each ninety day period following the effective date of section 101(c) of this title, the operator of a surface mining operation shall file a report with the Administrator on a form provided by the Administrator that accurately states the number and location of acres of land mined, and the number and location of acres of land reclaimed. An annual report with the same type of information shall be filed with the Administrator not later than the first day of February of each year for the previous year.

SANCTIONS

SEC. 109. (a)(1) Whoever knowingly violates the provisions of this Act or obtains a permit or renewal thereof pursuant to this Act through fraudulent means, shall be fined not more than $10,000.

(2) In addiion to the fine authorized under paragraph (1) of this subsection, and subject to the provisions of section 107 of this title the appropriate court may impose fine in an amount equal to not more than $5,000 for each acre of land stripped in violation of the provisions of this Act.

REVOCATION OF PERMITS

SEC. 110. (a) The Administrator may, subject to the provisions of this Act, revoke any permit or renewal thereof issued pursuant to this Act if he determines that—

1. the operator has violated any provision of this Act or any regulation issued pursuant thereto; or

2. such permit or renewal was obtained through fraud.

RELEASE OF BONDS

SEC. 111. (a) The Administrator may upon the application of the operator release in whole or in part any bond issued pursuant to this Act if it shall appear that said bond or portion thereof may be so released consistent with the requirements of this title.

(b) If the Administrator does not approve the reclamation performed by the permittee, the Administrator shall notify the permittee in writing within twenty days after the request for release is filed. The notice shall state reasons for said rejection and shall recommend actions to remedy said failure, and shall afford the operator an opportunity for hearing. Judicial review of any decision under this section shall be in the United States District Court for the District in which said operations are located.

TITLE II—STATE REGULATORY PROGRAM

ESTABLISHMENT

SEC. 201. (a)(1) Each State in which surface mining for coal is conducted shall, after reasonable notice and public hearings, adopt and submit to the Administrator, within eight months after the promulgation of criteria and guidelines (or any revision thereof) under section 102 of this Act, a program which provides for the regulation of surface mining in such State.

(2) The Administrator shall, within four months after the date required for submission of a regulatory program under paragraph (1) of this subsection or within four months of the submission of any such program thereafter approve or disapprove such program or each portion thereof. The Administrator shall approve such program or any portion thereof, if he determines that it was adopted after reasonable notice and hearing and that—

(A) it provides a permit or equivalent program to regulate the initiation and conduct of surface mining and restoration following such mining which permit program shall meet the requirements established for the interim program under title I of this Act;

(B) it provides that any State (other than the permitting State), whose land or waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

(C) it provides that permits are fixed on terms not exceeding two years;

(D) it provides that permits can be terminated or modified for cause including, but not limited to, the following:

(i) violations of any conditions of the permit;

(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(iii) changes in conditions that require either a temporary or permanent change, including cessation, in the permitted activity;

(E) it provides for inspection, monitoring, entering, and reports in a manner which will meet the requirements of section 203 of this Act;

(F) it provides for abatement of violations of the regulatory program, including permits and permit conditions, including civil and criminal penalties and other ways and means of enforcement;

(G) it provides for the filing of restoration plans and procedures, including restoration measures taken during and after completion of surface mine operation;

(H) it provides for the posting of performance bonds sufficient to insure restoration in compliance with the approved restoration plan;

(I) it provides for the designation of a single agency, or with the Administrator's approval, an interstate organization upon which the responsibility for administering and enforcing the program is conferred by the State which will insure full participation of those agencies responsible for air quality, water quality, and other areas of environmental protection;

(J) it provides for funding and manpower are or will be committed to the administration and enforcement of the regulations sufficient to carry out the purposes of this title;

(K) it provides for monitoring by the State agency of environmental changes in surface mined areas and adjacent lands and waters to assess the effectiveness of the regulatory program; and

(L) it provides for revision, after public hearings, of such program from time to time, but at least every five years, as may be necessary to take account of revisions of criteria and guidelines under section 102 of this Act.

(b)(1) After the effective date of any regulatory program under this title, each State shall transmit to the Administrator a copy of any permit application received by such State and provide notice to the Administrator of all actions related to the consideration of such permit applications, including all permits proposed to be issued by such State, except that the administrator may waive the

requirements of this section for permits or groups of permits where deemed appropriate.

(2) No permit shall issue until the Administrator is satisfied that the conditions to be imposed by the State meet the requirements of this Act.

(3) The Administrator may, within thirty days after receipt of any permit application, waive the requirements of clause (2) of this paragraph as to such permit application.

(e) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section or section 202, in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program.

(d) Copies of any permit application and any permit issued under this section shall be available to the public, in an appropriate place in each State. Such permit applications or permits, or portions thereof, shall further be available on request for the purposes of reproduction.

INSPECTIONS, MONITORING, AND ENTRY

SEC. 202. (a) For the purpose (1) of developing or assisting in the development of any regulatory program under this Act or any permit under this Act, or (2) of determining whether any person is in violation of any requirement of such a plan or any other provision of this Act—

(A) The Administrator may require any person owning or operating any surface coal mine to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or method, and (iv) provide such other information as he may reasonably require; and

(B) the Administrator or his authorized representative, upon presentation of his credentials—

(i) shall have a right of entry to, upon, or through any surface coal mine or any premises in which any records required to be maintained under paragraph (2)(A) of this subsection are located, and

(ii) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under paragraph (2)(A) of this subsection.

(b)(1) Each State with an approved regulatory program may develop and submit to the Administrator a procedure for carrying out this section or portions thereof in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has to carry out this section.

(2) Nothing in this subsection shall prohibit the Administrator from carrying out in a State, at any time, the authority granted under this section.

(c) Any records, reports, or information obtained under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof, to which the Administrator has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

FEDERAL ENFORCEMENT

SEC. 203. (a)(1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of section 201 of this Act, or of any permit or permit condition under this title, the Administrator shall notify the person alleged to be in violation of the permit or permit condition and the State in which the permit or permit condition applies of such finding and publish such finding. If such violation extends beyond the fifteenth day after the date of the Administrator's notification, the Administrator shall issue an order requiring such person to comply with the requirements of such permit or permit condition or he shall bring a civil action in accordance with subsection (b) of this section.

(2) Whenever, on the basis of information available to him, the Administrator finds that violations of a State regulatory program approved under section 201 of this Act are so widespread that such violations appear to result from a failure of the State in which such regulatory program applies to enforce such program effectively, he shall so notify the State. If the Administrator finds that such failure extends beyond the thirtieth days after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such program (hereafter referred to in this section as "period of federally assumed enforcement"), the Administrator may enforce any permit or permit condition under such program with respect to any person—

(A) by issuing an order to comply with such permit or permit condition, or

(B) by bringing a civil action under subsection (b) of this section.

(3) An order issued under this section shall take effect immediately. A copy of any order issued under this section shall be sent to the State in which the violation occurs. Any order issued under this section shall state with reasonable specificity the nature of the violation specify a time for compliance which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order or notice under this section is issued to a corporation, a copy of such order shall be issued to appropriate corporate officers.

(4) All notices or orders issued or the termination thereof under this section shall be published in the Federal Register.

(b) The Administrator may commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person—

(1) violates or fails or refuses to comply with any order issued under subsection (a) or this section, or

(2) violates any requirement of an approved State regulatory program during any period of federally assumed enforcement or violates any permit or permit condition more than fifteen days after having been notified by the Administrator under subsection (a)(1) of this section of a finding that such person is violating such permit or permit condition; or

(3) violates section 101 of this Act; or

(4) fails or refuses to comply with any requirement of this Act or any regulation issued hereunder.

Any action under this section may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given to the appropriate State.

(c)(1) Any person who willfully or negligently (A) violates any requirement of an approved State regulatory program during any period of federally assumed enforcement or violates any permit or permit condition more than fifteen days after having been notified by the Administrator under subsection (a)(1) of this section that such person is violating such requirement, or (B) violates or fails or refuses to comply with any order issued by the Administrator under subsection (a) of this section, or (C) violates section 101 of this Act, shall be punished by a fine of not more than $10,000 per day of violation. If the conviction is for a violation committed after the first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation.

(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or both.

JUDICIAL REVIEW

SEC. 204. (a)(1) A petition for review of action of the Administrator in approving a State regulatory program may be filed by any interested person only in the United States Court of Appeals for the District of Columbia. A petition for review of the Administration's action in issuing or denying any permit or permit condition, under section 201 of this Act, may be filed by any interested person only in the United States Court of Appeals for the appropriate circuit. Any such petition shall be within thirty days from the date of such determination, approval, promulgation, issuance, or denial, or after such date if such petition is based solely on grounds arising after such thirtieth day.

(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.

(b) In any judicial proceeding in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of this original determination, with the return of such additional evidence.

SEC. 205. Grants. The Administrator is authorized to make grants to any State for the purpose of assisting such State in developing, administering and enforcing environmental regulations under this Title provided that such grants do not exceed 80 percent of the program development costs incurred during the year preceding approval by the Administrator and do not exceed 60 percent of the total costs incurred during the first year following approval, 45 percent during the second year following approval, 30 percent during the third year following approval, and 15 percent during the fourth year following approval, at which time the Federal grants shall cease.

TITLE III—ORPHAN MINE RECLAMATION

SEC. 301. Congress recognizes that there are large areas of non-Federal lands in the Nation which have been damaged by surface mining and which have never been reclaimed or rehabilitated, and that runoff and erosion of soils in these areas is resulting in the deposit of sediment on adjacent land and into stream channels and reservoirs, the pollution of water by sediment and acid drainage, impairment of the beauty of the natural landscape, and injury to the public health and safety, and it is, therefore, declared to be the policy of Congress to provide Federal assistance in reclamation and rehabilitation of such lands and thereby to contribute to flood prevention, control and prevention of soil erosion, reduction of sediment damage, prevention of pollution, restoration of productivity and natural beauty, promotion of public recreation, development of fish, wildlife, and other natural resources, improvement of the economy and stability of the affected areas, and promotion of the public health, safety, and general welfare.

SEC. 302. In order to assist States and their political subdivisions, soil and water conservation districts, in developing and carrying out within watershed and subwatershed areas plans for works and measures for the reclamation and rehabilitation of non-Federal lands which have been damaged by surface mining and which are presently in a scarred or unreclaimed condition, the Secretary of Agriculture, hereinafter referred to in this title as the Secretary, is authorized, upon the request of States:

(a) to provide to the States and soil conservation districts technical assistance by the Soil Conservation Service for developing plans for the reclamation and rehabilitation of such lands, which plans may include works and measures such as revegetation, land smoothing, diversions, grade stabilization and gully-control structures, debris basins, bank sloping, drainage, access roads for maintenance, and any other works, measures, or practices deemed necessary by the Secretary; and

(b) to cooperate and enter into agreements with, and to make grants to and provide other aid as the Secretary deems necessary and appropriate in the public interest to effectuate the purposes of this Act to soil conservation districts for the purpose of carrying out any such plan that has been approved by the Secretary and the Governor of the State, or his designated representative, subject to such conditions as may be prescribed by the Secretary: *Provided*, That the Federal share of the cost of the reclamation and rehabilitation of any such lands included in an approved plan shall not exceed 75 per centum of the estimated total cost thereof.

SEC. 303. The program herein authorized shall apply to the unreclaimed or unrehabilitated lands damaged by surface mining located in States which have heretofore enacted, or shall hereafter enact, legislation requiring reclamation or rehabilitation of lands damaged by surface mining when the Secretary determines that:

(a) significant public benefits will be derived from the reclamation and rehabilitation of such lands;

(b) such lands were damaged by surface mining prior to the date of enactment of this Act, sometimes referred to as "orphan lands"; and

(c) there does not exist a contractual or other legal requirement for the adequate reclamation or rehabilitation of such lands: *Provided*, That the Secretary may carry out a limited program of reclamation of lands damaged by surface mining for demonstration purposes in those States which do not have laws requiring reclamation or rehabilitation of such lands.

SEC. 304. The Secretary may require as a condition to the furnishing of assistance hereunder to any owner of lands included in an approved plan that such landowner shall:

(a) enter into an agreement of not to exceed ten years providing for the installation and maintenance of the needed works and measures specified in such plan; and

(b) install or cause to be installed such needed works and measures in accordance with technical specifications as approved by the Secretary.

SEC. 305. The Secretary is authorized to prescribe such rules and regulations as he deems necessary or desirable to carry out the purposes of this Title.

TITLE IV

DEFINITIONS

SEC. 401. For the purposes of this Act, the term—

(a) "Administrator" means the Administrator of the Environmental Protection Agency;

(b) "Commerce" means trade, traffic, commerce, transportation, or communication between any State, the Commonwealth of Puerto Rico, the District of Columbia, or any territory or possession of the United States and any other place outside the respective bounadaries thereof, or wholly within the District of Columbia, or any territory or possession of the United States, or between points in the same State, if passing through any point outside the boundaries thereof;

(c) "Coal" includes bituminous coal, lignite, and anthracite;

(d) "Surface mine" means any surface mine from which coal is extracted, after removal of all or part of the overburden above, its natural deposits in the earth;

(e) "Person" means any individual, partnership, association, corporation, firm, subsidiary of a corporation, or other organization;

(f) "State" includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Virgin Islands, American Samoa, Guam, Trust Territory of the Pacific Islands, and Indian tribes; and

(g) "Site" means the land from which the overburden or coal is removed by surface mining, and all other land area in which the natural land surface has been disturbed as a result of or incidental to the surface mining activities of the operator, including but not limited to private ways and roads appurtenant to any such area, land excavations, workings, refuse banks, spoil banks, culm banks, tailings, repair areas, storage areas, processing areas, shipping areas, and areas in which structures, facilities, equipment, machines, tools or other materials or property which result from, or are used in, surface mining operations are situated.

(h) "Contour" means the shape and form of the land on which and adjacent to which surface mining is conducted. The phrase "return said land to a . . . contour substantially as it existed prior to commencement of operations . . ." as used in sections 102(b)(1) of the Act and elsewhere in the Act shall mean the use of original spoil material to refill and recover pits, benches, and high walls so that the original slope and plane of the land is substantially restored to a permanent and stable condition.

(i) "Surface mining" means all or any part of the process followed in the production of minerals from a natural mineral deposit by the open pit or open cut method, auger method, highwall mining method which requires a new cut or removal of overburden, or any other mining process in which the strata or oveburden is removed or displaced in order to recover the mineral; or in which the surface soil is disturbed or removed for the purpose of determining the location, quality or quantity of a natural mineral deposit, but shall not include excavation or grading when conducted solely in aid of on-site farming or construction.

(j) "Spoil material" means all earth and other materials which are removed to gain access to the mineral in the process of surface mining.

(k) "Spoil bank" means the everburden as it is piled or deposited in the process of surface mining, including reject coal.

(l) "bench" as used in this act and especially as used in subsection 4 of section 102(b) shall mean the level area from which the coal and overburden have been removed; the term shall not indicate in any case a constructed or "fill" bench unless such is specifically stated.

APPROPRIATIONS

SEC. 402. In addition to such fines as may be collected pursuant to the provisions of this Act there is authorized to be appropriated to the Administrator the sum of $——— for fiscal year 1974, and the sum of $——— for fiscal year 1975, and thereafter such sums as may be necessary for the purposes of this Act.

By Mr. CHILES (for himself and Mr. GURNEY):

S. 1164. A bill to provide for the establishment of the Guano River National Park in the State of Florida, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. CHILES. Mr. President, I am introducing a bill today which would provide for the Guano River National Park in the State of Florida. This is a companion measure to the bill introduced by Congressman BILL CHAPPELL. Senator GURNEY is joining me in introducing this measure.

This unique area consists of 10,000 acres of lush, high, dry land in St. Johns County. It also consists of 4½ miles of ocean frontage, 9 miles of freshwater lakes and ponds, and 11 miles of intercoastal waterway.

This legislation would authorize the Secretary of the Interior to designate and acquire the land for recreational purposes.

This irreplaceable and precious natural resource could be used and appreciated by almost 2 million people living within a 100-mile radius of the area. It is the only land of its type available in the northeast Florida area.

The acquisition of this area represents the kind of legacy which we need to protect and preserve, for not only this generation, but for all to come.

Efforts to acquire this unique area has broad support in my home State of Florida and would offer an invaluable asset for use and enjoyment for all our citizens.

I sincerely hope this legislation will receive an early hearing by the Congress so that we may move to protect one of the most unique and beautiful areas in Florida.

I ask that a copy of this legislation be printed at this point in my remarks.

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

S. 1164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for the purpose of preserving a relatively

unspoiled area of ocean beaches, fresh water lakes and ponds, and associated uplands for the inspiration and benefit of present and future generations, the Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to designate not to exceed 10,000 acres in St. Johns County, Florida, within the area described in subsection (b) for the establishment of the Guano River National Park.

(b) The area referred to in subsection (a) is bounded generally as follows: Beginning at the confluence of the Guano River and the Intercoastal Waterway; thence easterly and northerly along the Atlantic Ocean approximately four and one-half miles; thence westerly to the Intercoastal Waterway; thence southerly along the Intercoastal Waterway to the point of beginning.

SEC. 2. Within the area designated pursuant to the first section of this Act, the Secretary may acquire lands and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that any property owned by the State of Florida or any political subdivision thereof may be acquired only by donation. When the Secretary determines that lands and interests therein sufficient to constitute an efficiently administrable unit for the purposes of this Act have been acquired, he shall establish the area as the Guano River National Park by publication of a notice to that effect in the Federal Register. Pending such establishment and thereafter, the Secretary shall administer the lands and interests therein acquired for the purposes of this Act in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

SEC. 3. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. MOSS:

S. 1165. A bill to amend the Federal Cigarette Labeling and Advertising Act of 1965, as amended by the Public Health Cigarette Smoking Act of 1969, to define the term "little cigar" and for other purposes. Referred to the Committee on Commerce.

LITTLE CIGARS ACT OF 1973

Mr. MOSS. Mr. President, I introduce today a bill to amend the Federal Cigarette Labeling and Advertising Act of 1965 as amended by the Public Health Cigarette Smoking Act of 1969 to define the term "little cigar" and for other purposes.

Mr. President, the Little Cigar Act of 1973 would add to the Federal Cigarette Labeling and Advertising Act a definition for the term "little cigar" and would eliminate the broadcast advertising of "little cigars." In 1969, the Congress acted to eliminate advertising for cigarettes from the broadcast media, but we left untouched the question of little cigars.

Little cigars have been with us for a number of years. Traditionally these products were rolls of tobacco wrapped in leaf tobacco or reconstituted tobacco sheet similar to cigars, but much smaller than cigars. Due to their appearance—they invariably are the same size as cigarettes and are packaged similarly—they can be confused with cigarettes.

Recently little cigars were marketed with broadcast advertising and the seductive advertising themes associated with cigarette advertising which were eliminated with the 1969 Public Health Cigarette Smoking Act. Fortunately, the major marketers have very responsibly announced that they will refrain from further broadcast advertising once their current contracts run out.

The decision that has to be made is whether or not we can continue to permit the advertising of these products when evidence points to their hazardous nature.

During hearings held last February on several questions related to tobacco smoking, much evidence was presented concerning the similarity of the products. Since those hearings, I have tried to fashion a legislative proposal which would eliminate the advertising of the offending products in the broadcast media. Many considerations had to be made. First, I considered establishing a definition of cigarette which included certain of the physical/chemical factors associated with little cigars which made these products likely to be inhaled. The lack of scientific consensus as to a formula and as to a dividing point between cigarettes and cigars precluded the fashioning of a legislative proposal along those lines.

The Cigar Manufacturers Association presented information which suggested the establishment of a third classification for this type of product. Instead of being cigarettes and cigars, little cigars being a subgroup of cigars, the CMA suggested considering a new category which would include most of the little cigars currently on the market. And a third suggestion put forward was to reclassify all little cigars as cigarettes, for the purpose of the Federal Cigarette Labeling and Advertising Act.

The simplest way to proceed, is to take the definition of a little cigar as it exists in the Internal Revenue Code and apply that definition to the Federal Cigarette Labeling and Advertising Act and, at the appropriate place in the act, include little cigars in the prohibition on the broadcast advertising of certain tobacco products.

Contributing to my thinking have been several technical papers which have been submitted by Dr. Fred Bock and Dr. Irwin Bross of Roswell Park Memorial Institute as well as one by Dr. Ernest Wynder of the American Health Foundation. Mr. President, I ask unanimous consent that following my remarks the text of the bill be printed in the RECORD as well as the technical papers supplied by Drs. Bock, Bross and Wynder.

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

S. 1165

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 "Little Cigar Act of 1973."

SEC. 2. Section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331–1340) as amended by the Public Health Cigarette Smoking Act of 1969 is amended by inserting the following new subsection:

(7) The term "little cigar" means—

Any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subsection (1)) and as to which one thousand units weigh not more than three pounds.

SEC. 3. Section 6 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331–1340) as amended by the Public Health Cigarette Smoking Act of 1969 is amended by inserting the words, "and little cigars" after the word "cigarettes."

SEC. 4. The amendment made by this Act shall become effective 30 days after the date of enactment.

ROSWELL PARK MEMORIAL INSTITUTE,
Buffalo, N.Y., January 19, 1973.

To: Dr. Gerald P. Murphy.
From: Dr. Fred Bock, Orchard Park Laboratories of RPMI.
Subject: Position Paper on the Public Health Implications of Little Cigars.

The importance of little cigars in public health is a result of the interaction of scientific factors that can be measured and intangible characteristics of social behavior and governmental action. In an attempt to sort out these inter-related factors, I have attempted to break the overall problem into a number of questions that permit simpler answers.

What are little cigars? The definition of a cigar depends on the bias of the organization using the term. The cigar industry presumably would like to consider any product composed of tobacco and wrapped in tobacco derivative as a cigar. Because cigars are taxed at a much lower rate than cigarettes, this definition has obvious value to the manufacturer. They consider a little cigar as a cigar having the general size and shape of a cigarette. Little cigars are customarily packaged like cigarettes. The Internal Revenue Service goes one step further by requiring that cigars be composed of "cigar type tobaccos", that is, air cured rather than flue cured types. The distinction is more than academic. It seems most likely that the health hazard of smoke is proportional to its acidity. Air cured tobaccos yield an alkaline smoke because the carbohydrates are lost during curing. All other things being equal, the IRS definition tends to select between high risk and low risk products. Nevertheless, it should be possible to design a product meeting the IRS definition of cigar, but with the hazards of cigarettes. A definition implied by individuals interested in public health considers any product that looks like a cigarette, is packed like a cigarette, and is smoked like a cigarette should not be called a cigar.

It was reported in the Wall Street Journal recently that Philip Morris has a little cigar ready for market but has withheld it due to fears that the Federal Trade Commission will adopt the public health definition of cigars and forbid any television advertising of "little cigars". However, economic factors make the IRS definition dominant. It is generally considered that little cigars cannot achieve important market penetration if they should be taxed as cigarettes. The Wall Street Journal article also said that the first Winchesters submitted to the IRS were called cigarettes by that agency because of the tobacco used. The formula was then modified.

In summary, a little cigar differs from cigarettes with respect to the tobaccos used.

Is smoke from little cigars carcinogenic? Little cigars now on the market contain cigar type tobaccos. Smoke of full-size cigars is slightly more carcinogenic for mouse skin than cigarette smoke. No smoking product of any sort has been found to be non-carcinogenic. The *overwhelming weight* of scientific evidence indicates that smoke from little cigars is carcinogenic.

Should experimental vertification of this conclusion be required for legislative or public relations purposes, costs of an adequate bioassay would be in the order of 75,000–100,000. This would permit a comparison of one commercial cigarette with two commercial little cigars. The study would have little or no scientific value.

Is smoke from little cigars inhalable? The inhalability of smoke depends on three factors, the pH, the concentration of nicotine and pyridine derivatives and the past history of the smoker. Absorption of nicotine and other pyridine derivatives from smoke is enhanced when these compounds are present in the free base form. Cigarette smoke has a slightly acidic pH (approximately 6.0) so that nearly all of the nicotine is ionic and less effectively absorbed. This provides a mild flavor permitting inhalation and encouraging inhalation in individuals who subconsciously seek certain blood levels of nicotine. Absorption of nicotine from inhaled smoke is efficient because most of the smoke nicotine is retained in the lungs until it can be absorbed.

The pH of the smoke of little cigars more nearly represents that of standard cigars than cigarettes.[1] The nicotine levels[1, 2] and pyridine levels[1] of the smoke of both cigarettes and little cigars cover a large range which overlaps. All other things being equal, one might predict that the smoker would be less likely to inhale with little cigars than with cigarettes.

This conclusion must be tempered by data of Bross which shows that cigarette smokers who switch to cigars inhale more than do cigar smokers who never smoke cigarettes. Habitual inhalers tend to continue to inhale even after switching from cigarettes to cigars.

A full answer requires observation of an adequate sample of smokers. Until this is done, we can conclude that the evidence *suggests* that the smoke from little cigars is less inhalable than the smoke of standard size cigars.

Is it likely that little cigars will be an important public health problem? It can be assumed that little cigar smoke does have a hazard, be it large or small, for the individual consumer. Whether little cigars will create a public health problem or even a benefit depends on four factors, none of which can be studied in the laboratory. 1. Will little cigars be consumed in quantity? Were it not for a substantial advertising campaign, the answer would be "no." With a susbtantial advertising campaign, the answer must be "maybe," inasmuch as the cigarette industry has demonstrated its ability to sell almost anything. 2. Will the advertising of little cigars provide "institutional exposure" for cigarettes as a very similar smoking product? If so, the exploitation of little cigars may increase consumption of cigarettes. 3. Will nonsmokers begin smoking little cigars and subsequently switch to smoking cigarettes? 4. Will little cigars replace cigarettes and provide a less hazardous smoking alternative?

I would conclude today that little cigars *might* become an important health problem.

What types of governmental action are appropriate at this time? The general answer depends on personal prejudices about the need for governments to protect their citizens against themselves. There is, however, one important area for which scientific justifications for governmental action exists. A good tobacco scientist could design a smoking product that would be composed of cigar type tobaccos with additives such that the smoke would resemble cigarette smoke. Such a product, if called a cigar, could masquerade as a less hazardous smoking material even if it were more hazardous than cigarettes. It seems prudent to establish preventative regulations at this time, before strong commercial interests are involved. It ought to be possible, for example, to require that cigars provide smoke such that the pH of any puff as measured by the Sensabaugh and Cundiff method[3] would not be less than 6.3. Such a limit would not be the best protection for the public but because it probably would not restrict any present commercial product, would have better opportunity for adoption. Half a loaf seems better than none. It may be necessary for the government to collect hard data with respect to these specific products before this action can be taken. If so, the appropriate studies should be established as soon as possible.

What is the role of RPMI in this area? The role of RPMI in measuring the hazards of cigarettes is very extensive. We have not conducted any experiments with cigars of any sort. No plans for such studies exist at this time inasmuch as they do not merit important scientific attention. We have studied cigarettes made of different types of tobacco and tobacco substitutes. These studies confirm the expectation that any smoking product yields a carcinogenic smoke. The major problems related to the hazards of little cigars transcend laboratroy study. Accordingly, we have no plans for evaluation of little cigars. Facilities for such studies are available should broad social policy warrant them.

FOOTNOTES

[1] Hoffman, D. and Wynder E.: Smoke of Cigarettes and Little Cigars: An Analytical Comparison. Science, 178:1197–1199, 1972.

[2] Federal Trade Commission Releases—July 3, 1972. Test Result for Small Cigars. (att. David H. Buswell 202–962–7144).

[3] Sensabaugh, A. J., Jr. and Cundiff, R. H.: A New Technique for Determining the pH of Whole Tobacco Smoke. Tobacco Science, 11:29–30, 1967.

Footnotes at end of article.

AMERICAN HEALTH FOUNDATION, DIVISION OF EPIDEMIOLOGY, HEALTH RESEARCH INSTITUTE, NEW YORK, N.Y.

SMOKE OF CIGARETTES AND LITTLE CIGARS

[A Chemical-Analytical Comparison (1)]

ABSTRACT

Chemical-analytical data are presented from a comparison study of the smoke of cigarettes and little cigars. The tobacco products and their mainstream smokes were analyzed for a number of toxic constituents. The study represents a preliminary effort to define "smoke inhalability".

Epidemiological studies have demonstrated that the chance of developing lung cancer is greater for cigarette smokers than for cigar smokers, however, both types of smokers face the same risk of developing cancer of the oral cavity. The difference in the rate at which cigar and cigarette smokers develop lung cancer is related to known differences in inhalation practices which are, in turn, determined by the physiochemical properties of the different smoke (2).

At present, in the United States, the distinction between a cigar and a cigarette is based on the 1961 Internal Revenue definition, made for tax purposes, which defines a cigar as "any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco" and cigarette as "any roll of tobacco wrapped in paper or any substance not containing tobacco" (3).

It is obvious that if the distinction between cigars and cigarettes is to be meaningful in terms of the potential hazard to human health, it should be based not on the composition of the wrapper, but rather on the physiochemical properties of the smoke and its resulting "inhalability". This study attempts to establish the specific physiochemical differences between the smoke of cigarettes, cigars, and the new, popular category, little cigars. It is hoped that this information will contribute to the establishment of a new distinction among the three which is more relevant to human health.

Cigarettes without filter tips were obtained from the University of Kentucky (4); the filter cigarettes, little cigars B, small cigars C, cigars D from the open market in New York City (Dec. 1971/Jan. 1972); and little cigars A from the open market in Boston, Mass. (Dec. 1971). The filter cigarettes, little cigars B, small cigars C, and cigars D were the largest brands in their respective groups (5). The tobacco products were humidified in a chamber maintained at a relative humidity of 60% and 22°, and subsequently smoked under standard conditions (8). Afterwards they were analyzed by standard procedures for reducing sugars (6), draw resistance (7), burning rate (8), total particulate matter (TPM; 9), moisture in TPM (10), nicotine by gas chromatography (7), carbon monoxide and carbon dioxide (11), hydrogen cyanide (12), acetaldehyde and acrolein (7), pH of total smoke (13), volatile pyridines (11), volatile phenols (14), and benz[a] anthracene (BaA) and benzo[a]pyrene (BaP: 15).

We chose these determinations as indicators of combustibility (burning rate), overall toxicity (TPM and nicotine), degree of nicotine toxicity (pH), toxicity of the gas phase (CO, CO_2, and HCN), cilia toxicity (acetaldehyde and acrolein), toxic and taste influencing volatile bases (pyridines), volatile tumor promoters (phenols), and tumor initiators (benz[*a*]anthracene and benzo[*a*]-pyrene). Since air cured, Burley, and cigar type tobaccos have significantly lower concentrations of reducing sugars than flue cured, sun cured, Bright or Turkish tobaccos, we also determined the total reducing sugars. These latter tobaccos are the major components of many cigarettes. The regular cigars were tested only for pH and pyridines. Results are summarized in Tables 1 through 4.

The concentration of total reducing sugars in the tobacco of little cigars is significantly lower than that of blended cigarettes (table 1). This result was expected since cigars are reported to contain only air cured and fermented tobaccos. These data need further investigation since the low concentration of total reducing sugars in these tobacco types is related to the relatively low concentrations of acids in the tobacco and thereby to the increasing pH value of the total smoke of these tobaccos. At hydrogen ion concentrations below 10^{-6}. (>pH 6), tobacco contains increasing amounts of unprotonated nicotine (and other pyridines), the most toxic form of nicotine in tobacco smoke.

The burning rates of little cigars with filters are relatively rapid, resulting in a low number of puffs for the amount of tobacco in these products (Table 1). The "tar" (TPM) and nicotine concentration in the mainstream smoke of little cigars A is lower than expected for this product. This result is at least partially explained by the tobacco selection and the incorporation of puffed tobacco and reconstituted tobacco sheets into the tobacco blend which was revealed when samples were examined under the microscope.

The pH values for the total smoke show that the smoke of the last two puffs is basic (pH >7.0; table 2). Indeed, our results indictate that as much as 30 to 40% of the smoke of regular cigars is basic in nature. Since only the last two puffs of little cigar A evolve smoke of a basic nature and the nicotine concentration of the smoke is quite low for a tobacco product, one may expect that the smoker of little cigar A is more likely to inhale the total smoke than the smoker of other little cigars. The smoker of standard cigars and most litle cigars is, however, not likely to inhale the total smoke since the higher nicotine concentration of the cigar smoke, coupled with a high pH, makes the inhalation of cigar smoke unpleasant.

The smoke of little cigar A has CO and CO_2 concentrations comparable to cigarette smoke (Table 3; see also ref. 6), whereas the high CO and CO_2 values for little cigar B and small cigar C make it less likely that their smoke is inhaled. The low concentration of hydrogen cyanide, acetaldehyde, and acrolein also indicate that little cigar A is an unusually mild tobacco product (Table 3). The volatile pyridines are primarily py-

rosynthetized from tobacco alkaloids. They are assumed to give the smoke its undesirable taste and to contribute to the strength of the smoke flavor of cigars. Table 3 shows that the mainstream smoke of little and small cigars with filter tips have considerably higher concentrations of pyridines than filter cigarettes, but significantly lower concentrations of volatile pyridines than cigars. This finding supports the concept that the little cigar smoke flavor is less harsh than that of cigars. The concentration of volatile phenols is also very low for little cigar A. This results not only from the tobacco blend, but also from the selective removal of these agents by the cellulose acetate filter with its plasticizers (Table 3; Ref. 16). The ratio of *p*-ethylphenol to 2,4- and 2,5-dimethylphenol is significantly greater in little cigar smoke than in cigarette smoke. At present we do not know the significance of this observation. The concentration of benz[*a*]anthracene and benzol[*a*]pyrene in the smoke of 1.0 g of little cigar tobacco is relatively low (Table 3). This result was expected for tobacco products which are largely made up of cigar type or air cured tobacco and reconstituted tobacco sheets (7, 17).

Our preliminary data indicate that on a per puff basis (Table 4) the reduced levels of "tar," nicotine, and CO may permit the tobacco user to inhale the total smoke of some little cigars even though it is otherwise just as toxic as the "uninhalable" smoke of conventional cigars.

We intend to analyze and compare the smoke of various tobacco products for these and additional smoke constituents with the eventual goal of establishing a relationship between physicochemical properties of tobacco smoke and the probability of total inhalation by man. Such a study is of importance in assessing the full harmful potential of smoking products in relation to the way they are used by man.

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ERNEST L. WYNDER.

REFERENCES AND NOTES

1. No. XVIII of "Chemical Studies on Tobacco Smoke".

2. E. L. Wynder, E. A. Graham, *J. Am. Med. Assoc.*, 143, 329 (1950); M. L. Levin, H. Goldstein, R. R. Gerhart, *J. Am. Med. Assoc.*, 143 336 (1950); Royal College of Physicians, London, *Smoking and Health* (Pitman Med. Publ. Co., London, 1962); U.S. Public Health Service, *Public Health Rept.* No. 1103 (1964); No. 1696 (1967); No. 1696—Suppl. (1968); No. 1696–2 (1969); Royal College of Physicians, London, *Smoking and Health Now*, (Pitman Med. Publ. Co., London, 1971); U.S. Public Health Service, *DHEW Publ.* No. (HSM) 71–7513 (1971); DHEW Publ. No. (HSM) 72–1516 (1972).

3. U.S. Dept. Treasury, Internal Revenue Service, "Code of Federal Regulations", 26, Part 270 "Manufacture of Cigars and Cigarettes" 759, (1972).

4. The Kentucky standard cigarettes are manufactured for research purposes only. Their "tar" yield is rather high compared to commercial U.S. cigarettes of the same length and without filter tips.

5. J. C. Maxwell, Jr., *Tobacco Reporter*, 98, 20 (1971).

6. U.S. Dept. of Agriculture, Method 34, *U.S.D.A. Tech Bull* 1225, 117 (1960).

7. E. L. Wynder, D. Hoffmann, *Tobacco and Tobacco Smoke* (Academic Press, Inc., New York, (1967)).

8. D. Hoffmann, E. I. Wynder, *Cancer Res.*, 27, 172 (1967).

9. H. C. Pillsbury, C. C. Bright, K. J. O'Connor, F. W. Irish, *J. Assoc. Offic. Agr Chemists*, 52, 458 (1969) (Official method of the Federal Trade Commission).

10. F. J. Schultz, A. W. Spears, *Tobacco Sci.*, 10, 75 (1966).

11. D. Hoffmann, K. Brunnemann, G. Rathkamp, unpublished methods.

12. A. Artho, R. Koch, *Beitr. Tabakforsch.*, 5, 58 (1969).

13. A. J. Sensabaugh, Jr., R. H. Cundiff, *Tobacco Sci*, 11, 25 (1967).

14. D. Hoffmann, E. L. Wynder, *Beitr, Tabakforsch.*, 1, 101 (1961) (phenol-^{14}C served as internal standard).

15. G. Rathkamp, D. Hoffmann, *Beitr*, Tabakforsch., 5, 302 (1970).

16. D. Hoffmann, E. L. Wynder, *J. Natl. Cancer Inst.*, 30, 67 (1963).

17. D. Hoffmann, E. L. Wynder, *Natl. Cancer Inst. Monograph*, 28, 151 (1968).

18. Supported in part by American Cancer Society Grant BC 56P and by National Cancer Institute Grant NIH–NCI–70–2087.

TABLE 1.—ANALYSIS OF CIGARETTES AND LITTLE CIGARS AND SOME OF THEIR SMOKE CONSTITUTENTS

Sample	Length (millimeters)	(Weight milligrams per cigarette)	Reducing sugars (percent of tobacco weight)	Draw resistance (inches)	Burning rate (milligram tobacco per minute)
Cigarette (nonfilter)	85	1,100	9.3	2.6	51.3
Filter cigarette (21-millimeter filter)	85	1,010	7.9	5.3	61.7
		[1] 845			
Little cigar A (21-millimeter filter)	85	956	1.5	5.2	72.2
		[1] 775			
Little cigar B (18-millimeter filter)	85	1,078	2.9	5.1	61.0
		[1] 934			
Small cigar C (15-millimeter filter)	99	1,522	2.7	3.5	90.1
		[1] 1,355			

Sample	Average number of puffs	TPM wet (milligrams per cigarette)	TPM dry (milligrams per cigarette)	Nicotine (milligrams per cigarette)	TPM [1]–(FTC) (milligrams per cigarette)
Cigarett (nonfilter)	11.0	43.2	39.0	2.85	36.1
Filter cigarette	10.0	23.0	21.7	1.4	20.3
Little cigar A	7.7	21.4	18.0	0.6	17.4
Little cigar B	9.8	39.1	33.6	1.8	31.8
Small cigar C	11.6	49.0	43.7	3.1	40.6

[1] Without filter.

[1] FTC value for TPM=TPM wet minus water and minus nicotine.

Note: Butt length standards are 23 millimeters, in all other instances, filter cigarettes are smoked to a butt length given by the length of the filter plus 3-millimeter margin from the overwrap between the filter and the tobacco.

TABLE 2.—pH OF TOTAL MAINSTREAM SMOKE

Number puffs	Cigarette (nonfilter)	Filter cigarette	Little cigar A	Little cigar B	Small cigar C
3:					
Low	6.09	6.00	6.14	6.30	6.35
Average	6.19	6.15	6.44	6.55	6.53
High	6.29	6.39	6.74	6.81	6.71
5:					
Low	6.04	5.92	6.20	6.11	6.23
Average	6.14	6.12	6.34	6.46	6.49
High	6.23	6.31	6.93	6.86	6.89
7:					
Low	6.00	5.83	6.27	6.05	6.17
Average	6.09	6.01	7.03	6.51	6.56
High	6.17	6.10	7.80	6.98	6.95
9:					
Low	5.95	5.73	----	6.16	6.16
Average	6.02	5.83	----	6.98	6.59
High	6.09	5.93	----	7.81	7.02
Last puff:					
Low	5.90	5.67	6.63	6.25	6.29
Average (11)	5.96	(10) 5.76	(8) 7.73	(10) 7.25	(11) 7.11
High	6.02	5.86	8.83	8.36	7.93

Note: For comparison the pH values of the popular U.S. cigar D: 3d puff—6.26, 6.47, 6.67; 8th puff—6.03, 6.27, 6.55; 13th puff—6.02, 6.29, 6.57; 18th puff—6.16, 6.41, 6.77; 23d puff—6.46 6.81, 7.27; 28th puff—6.83, 7.22, 7.61; 33d puff—7.22, 7.53, 7.90; 38th puff—7.46, 7.78, 8.14; 43d puff—7.66, 7.96, 8.36.
(Average number of puffs: 45.)

TABLE 3.—SELECTED COMPOUNDS IN MAINSTREAM SMOKE

Smoke compound	Cigarette	Filter cigarette	Little cigar A	Little cigar B	Little cigar C
CO_2 volume (percent)	4.6	4.5	5.3	11.1	7.7
CO_2 volume (percent)	9.4	9.6	8.5	13.2	12.7
HCN (μg per cigarette)	536	361	381	697	1,029
Acetaldehyde (μg per cigarette)	770	774	630	1,238	1,150
Acrolein (μg per cigarette)	105	71	41	54	66
Pyridine (μg per cigarette)	24.8	11.0	24.2	35.8	29.5
α-Picoline (μg per cigarette)	13.1	4.5	9.4	13.6	11.5
β-Picoline (μg per cigarette)	23.0	5.6	12.6	20.3	19.0
γ-Picoline (μg per cigarette)	6.8	2.0	3.5	6.4	5.9
Lutidines (μg per cigarette) [1]	15.1	4.2	8.3	9.2	14.4
Total Pyridines (μg per cigarette) [2]	82.8	27.3	58.0	85.3	80.3
Phenol (μg per cigarette)	124.2	33.0	35.1	63.4	94.1
oCresol (μg per cigarette)	24.0	6.8	4.0	10.0	19.5
m+p-Cresol (μg per cigarette)	75.4	22.2	16.9	37.8	67.1
2,4+2,5-Dimethylphenol (μg per cigarette)	9.4	4.6	1.0	3.7	6.1
m+p-ethylphenol (μg per cigarette)	22.1	9.2	6.5	17.6	27.0
Benz]alanthracene (ng per cigarette)	74	31	34	25	39
Benzo]alpyrene (ng per cigarette)	47	20	18	22	30

[1] Sum of 2,6-, 2,4-, and 3,5-lutidines which were determined by gas chromatograph individually.
[2] Values for cigar D 536.1 μg.

TABLE 4.—SOME SELECTED TOXIC AGENTS IN THE SMOKE OF A SINGLE PUFF[1]

Sample	TPM[2] (FTC) milligram	Nicotine (milligram)	pH last puff	CO volume (percent)	CO_2 volume (percent)	HCN μg	Total pyridines μg
Cigarette	3.28	0.259	5.96	4.6	9.4	48.7	7.6
Filter cigarette	2.03	.140	5.76	4.5	9.6	36.1	2.7
Little cigar A	2.26	.078	7.73	5.3	8.5	49.5	7.6
Little cigar B	3.24	.183	7.25	11.1	13.2	71.1	8.7
Small cigar C	3.50	.267	7.11	7.7	12.7	88.7	6.9

[1] Values of total smoke divided by number of puffs to reach standard butt length. [2] FTC value for TPM; TPM wet minus water and minus nicotine.

ROSWELL PARK MEMORIAL INSTITUTE,
Buffalo, N.Y., January 17, 1973.

To: Dr. Gerald P. Murphy.

From: Dr. Irwin D. J. Bross, Department of Biostatistics of RPMI.

Subject: Position Paper on Health Hazards of Small Cigars.

INTRODUCTION

Despite the well-known health hazards of cigarettes, people continue to smoke. This has spurred efforts to find less hazardous tobacco products. The cigarette-like cigars which have become increasingly popular have sometimes been advocated as a less hazardous substitute for cigarettes. However there was very limited data on the hazards of small cigars and the Federal Trade Commission has asked for "additional evidence . . . on the question of whether, in actual use by consumers, 'small cigars' are inhaled in the same manner as cigarettes."[1]

For full-sized cigars there is ample evidence that the risk of lung cancer and certain other health hazards is much lower than for cigarettes. A number of factors are probably involved in this difference. The processing and cutting of the tobacco leaf, the burning temperatures and other combustion properties, the number smoked per day, and the extent to which the smoke is inhaled are factors which are all markedly different for cigars and cigarettes. However the small cigars are much more like cigarettes and there was the distinct possibility that their health hazards may also be more like those of cigarettes. Therefore it is important to get some assessment of hazards as soon as possible.

For some factors, information is available. The tar and nicotine levels of the small cigars have been reported by the Federal Trade Commission's laboratory.[1] Comparison with a report from the same source for cigarettes[2] shows that the tar levels for the small cigars tend to be somewhat higher than for cigarettes. The median level for cigarettes is 19 mg. and for cigars 27.6 mg. There is, however, some overlap between the higher levels for cigarettes and the lower levels for small cigars.

Since there is no reason to believe that the tar from the small cigars is any less carcinogenic, if there were any health advantage to the cigars it would have to come from reduced exposure to smoke. The crucial factor here is probably inhalation.

Only rather limited direct evidence on inhalation patterns of persons who switched from cigarettes to small cigars is now available. It is somewhat difficult to obtain this kind of information directly for several reasons. A relatively small proportion of smokers use these products, there are a number of different brands with different burning characteristics, and inhalation patterns for persons who have just switched to small cigars may not have stabilized. Hence it is not easy to obtain a sufficiently large and a representative sample of persons who switched to small cigars to get reliable results.

It will take some time to obtain the desired direct information and it is undesirable to indefinitely postpone several crucial decisions: Should the small cigars carry the same warning label as cigarettes? Should they be taxed as cigarettes? What restrictions on advertising statements should be made?

Several different federal agencies as well the general public have a stake in getting a prompt answer to the question: Are the health hazards of small cigars like those of large cigars or like those of cigarettes?

By approaching the problem as one involving habitual behavior, we are able to obtain a reliable answer to this question without excessive delay. We start with the question: Can we predict the inhalation and other smoking habits of persons who switch from cigarettes to small cigars? If we can make this prediction then we can make a putative assessment of the health hazards of this new product. Finally, if we can assess the health hazards we can see whether the policy should be to encourage the use of these new products or treat them as another kind of cigarette.

DATA ON INHALATION PATTERNS

When I first discussed small cigars with Dr. Fred Bock, an expert on tobacco carcinogenesis at Roswell Park Memorial Institute for Cancer Research, he remembered a remark that Dr. Charles Ross had made. Dr. Ross, a lung surgeon and former colleague at RPMI, had the clinical impression that his patients who switched from cigarettes to cigars inhaled much more than the usual cigar smoker. If this could be validated by actual data (and in my experience clinical impressions have about 50–50 chance of validation) this would tell us something about the inhalation patterns that could be expected with small cigars. Fortunately, the data that was needed was right at hand.

Since 1957 the Epidemiology Department had been obtaining interviews with almost all patients admitted to RPMI "concerning their smoking habits and exposures to other potential environmental hazards"[3, 4]. While a majority of patients have cancer, more than one-third have non-neoplastic diseases. Adequate and relevant data on the inhalation of 3,916 white males were available on magnetic tape.

The question of inhalation that is most directly pertinent to the hypothesis about carryover of habits concerns frequency of inhalation. The responses range from "almost every puff" to "never inhale". For persons smoking only cigarettes, 76% fall in the highest category and only 7% never inhale. For persons smoking only cigars 4% report that they inhale almost every puff and 89% say they never inhale. These results, which are in line with previous reports on inhalation, show clearly the marked difference in inhalation habits for the two forms of tobacco.

The cigar smokers who also smoke cigarettes report inhalation patterns which are intermediate between the cigar only and cigarette only patterns. They stand out clearly from both groups. The pattern is similar whether the individuals continue to smoke both products, have stopped smoking cigarettes but have continued smoking cigars, or have stopped smoking cigarettes and have switched to cigars. In all three groups about 20 percent report inhaling "almost every puff". The respective percentages and confidence intervals are shown in Figure 1.

Figure 1 validates the clinic impression in an unequivocal way. When individuals have smoked cigarettes prior to or concurrently with cigars the inhalation pattern for cigarette smoking tends to carryover to their cigar smoking. Note that here we are talking about *regular* cigars—a tobacco product which is not entirely pleasant to inhale.

IMPLICATIONS OF THE DATA

Figure 1 uses simple biostatistical procedures (i.e., confidence intervals) to provide a clearcut validation of the hypothesis that cigarette smokers carry over their inhalation habits to regular cigars when they switch (or switch back and forth). The immediate implications concerning the health hazards of small cigars can be seen from relatively simply and straightforward scientific arguments. For example, although the data does not involve the cigarette-like cigars, some prediction can be made concerning the proportion inhaling "almost every puff" for persons switching from cigarettes to such cigars. This proportion is clearly somewhere between the 20 percent for regular cigars and the 75 percent for cigarettes. To get a closer estimate we can interpolate between the two endpoints on the basis of the physical characteristics of the products and their smoke.

One of the properties of the smoke which is considered closely related to whether the smoke is pleasant to inhale or not is the alkalinity as measured by pH. Hoffman and Wynder have recently shown[5] in an ingenious puff-by-puff analysis of pH that the small cigars they tested are very similar to cigarettes in this respect. Other physical characteristics of the small cigars are also more like those of cigarettes than those of cigars. Hence an estimate of inhalation frequency can be obtained by interpolation from the pH or other physical characteristics.

Hoffman and Wynder report that "as much as 30 to 40 percent of the smoke of regular cigars is basic in nature". Cigarette smoke, whether from filtered or non-filtered cigarettes, does not become basic. With small cigars the smoke does not become basic until the last puff or two. According to Wynder and Hoffman ". . . the higher nicotine concentration of the cigar smoke, coupled with a high pH, makes the inhalation of cigar smoke unpleasant". The cigarette-like cigars have nicotine levels comparable to cigarettes.

Combining this laboratory data with the previous findings on inhalation frequency for persons switching to regular cigars, it is clear that the inhalation levels for small cigars will be closer to the 75% level for cigarettes then to the 20% level for regular cigars. A conservative estimate would be that over 50% of the persons switching to small cigars would inhale almost every puff. Moreover, while the actual proportion would probably vary with the brand of cigars smoked, the carryover of inhalation habits would occur for all brands.

The estimate of "over 50%" inhalation may not be very precise but it is good enough for a number of practical decisions. *It strongly implies that health hazards of small cigars will be more like those of cigarettes than those of regular cigars.* Hence as a matter of public policy, there is no reason to give preferential treatment to small cigars insofar as advertising, hazard labels, or taxation is concerned. While the hazard of cigarette-like cigars has not been proved "beyond a shadow of a doubt", there is strong factual evidence indicating hazard. Unless contrary factual evidence can be produced that exonerates the small cigars, the benefit of the doubt should go to the public rather than to the product.

Footnotes at end of article.

TABLE I.—CONFIDENCE INTERVALS ON PERCENTAGE REPORTING INHALATION "ALMOST EVERY PUFF": CURRENT AND PREVIOUS TOBACCO USAGE BY TYPE OF TOBACCO, CIGAR, OR CIGARETTE

Current usage[1]	Previous usage[1]	Number of patients	Type inhaled	Percentage inhaling "almost every puff"		
				Percent	Confidence limits	
					Lower	Upper
Cigarettes only	Cigarettes only	2,359	Cigarette	74.8	73.1	76.6
Cigars only	Cigars only	649	Cigars	4.5	3.0	6.0
Cigarettes and cigars	Cigarettes and cigars	520	do	20.4	10.5	28.0
Cigars	do	93	do	18.3	9.0	10.0
None	do	186	do	21.5	17.8	24.2
Cigars	Cigarettes only	64	do	17.2	16.0	28.0

[1] Status of tobacco usage by type of tobacco.

FOOTNOTES

[1] Federal Trade Commission, Report of "Tar" and Nicotine Content of the Smoke of 25 Varieties of Small Cigars. Federal Trade Commission NEWS. (July 3, 1972).

[2] Federal Trade Commission, Report of "Tar" and Nicotine Content of the Smoke of 142 Varieties of Cigarettes. (July 1972).

[3] Bross, I. D. J.: "Effect of Filter Cigarettes on the Risk of Lung Cancer." National Cancer Institute Monograph (28):35–40, 1968.

[4] Bross, I. D. J., Gibson, R.: "Risks of Lung Cancer in Smokers Who Switch To Filter Cigarettes." American Journal of Public Health, 58(8):1396–1403, August 1968.

[5] Wynder, E. L., Hoffmann, D.: "Smoke of Cigarettes and Little Cigars: An Analytical Comparison." Science *178* (4066):1197–1199, December 15, 1972.

By Mr. MOSS:

S. 1166. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to require the establishment of a Federal motor vehicle safety standard with respect to rear lighting. Referred to the Committee on Commerce.

REAR MOUNTED LIGHTING SYSTEM

Mr. MOSS. Mr. President, I introduce for appropriate reference a bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to require the establishment of standards related to rear-mounted lighting systems.

I believe this legislation would be an important step in providing rear-end protection for the motorist and greater safety on our highways. The bill calls for standards to meet a very specific problem.

Our automobile lighting systems are deficient. That deficiency is particularly apparent in rear-mounted warning light systems, which rely upon varying configurations and intensity of the same colors to indicate turns and stops.

I believe it is possible and desirable to devise a better system, a system that would apply other colors such as amber and green the way our traffic lights currently guide us. I ask unanimous consent that the text of the legislation be printed in the RECORD at the conclusion of my remarks.

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

S. 1166

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 "Motor Vehicle Rear Lighting Act".

SEC. 2. (a) Title I of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by inserting after section 103 thereof the following new section:

"REAR LIGHTING STANDARD

"SEC. 103A. (a) Within 180 days after the date of enactment of the Motor Vehicle Rear Lighting Act, the Secretary shall establish by order a Federal motor vehicle safety standard relating to rear lighting systems consistent with the requirements of this section. The standard so established shall be in addition to and consistent with any standard established under section 103 with respect to lamps, reflective devices, and associated equipment and other standards established under that section which relate to the mechanisms governing the acceleration or braking of motor vehicles.

"(b) The Federal motor vehicle safety standard relating to rear lighting systems, which the Secretary is required under subsection (a) to establish, shall require that the rear lighting system of any motor vehicle manufactured after the effective date of the standard shall include—

"(1) a green light (or lights), visible from behind the motor vehicle, activated only when the accelerator control mechanism is holding the throttle in a position other than idle; and

"(2) an amber light (or lights), visible from behind the motor vehicle, activated whenever neither the light referred to in paragraph (1) is being activated nor the braking indicator light is being activated.

"(c) The rear lighting system standard required under this section shall also provide—

"(1) that the entire rear lighting system of any motor vehicle to which the standard applies shall be so arranged and displayed that an individual with defective color vision will be able to determine which lights are being activated on a motor vehicle in front of him;

"(2) that the rear lighting system of any motor vehicle to which the standard applies shall be displayed in such a manner as to avoid any possible confusion with traffic semaphore signals; and

"(3) for the avoidance of overlapping and ambiguous lighting signal displays to the greatest extent practicable."

By Mr. HART:

S. 1167. A bill to supplement the antitrust laws, and to protect trade and commerce against oligopoly power or monopoly power, and for other purposes. Referred to the Committee on the Judiciary.

INDUSTRIAL REORGANIZATION ACT

Mr. HART. Mr. President, back in 1890, Senator John Sherman rose to begin the debate that led to passage of the first antitrust law and explained that he had not planned lengthy remarks because:

I supposed the public facts upon which it (the bill) is founded were so manifest that no debate was necessary to bring these facts to the attention of the Senate.

The trusts, of course, in those days were rampant. Name a possibility, it existed—oil, whisky, lumber, sugar, tea, steel, paper.

Of course, in those days there were no militant consumer groups to reckon with and there was no public relations industry to smooth over the rough edges of monopoly arrogance and greed.

So the disagreeable nature of monopoly power and the unpleasant attitude of the men who ran it was much more patent.

But in terms of concentration of economic power and all its unhealthy side effects, the situation today is not much different from what it was then.

With about 400,000 manufacturing firms in this country today, a mere 200 control two-thirds of the assets of all.

In the major sectors of our economy, markets are dominated by two, three or five companies that often behave as one when it comes to pricing policy.

The Antitrust and Monopoly Subcommittee has been examining this problem for a number of years and in the mind of this student there is no longer any doubt that concentration of economic power has contributed heavily to the waves of inflation that plague us so consistently.

Consumers in this economy must depend on competition to get value. And competition does not flourish when the number of competitors is being steadily diminished.

The Sherman and Clayton Acts, in my opinion, were soundly conceived bills, but they did not contemplate the complex business conditions that exist today. And the acts have been so interpreted over the years that enforcers are sent on distant chases after fox while the chicken coop remains infested with wolves.

In fact, the wolves are often in such solid possession of the coop that whatever enforcers can be mustered are often too small in number to mount an assault.

Consider the IBM case. Four years ago, the Government charged the company with monopolization under the Sherman Act.

Several private cases were also filed against IBM—the best-known being brought by the Control Data Corp.

As part of the discovery process, IBM produced 40 million documents.

At first, the Antitrust Division attempted to set up its own retrieval system and data bank for these 40 million documents. After spending $100,000 the Division realized that Control Data was far ahead in its efforts—and had developed a more sophisticated system.

Justice therefore asked for—and

received—access to the company's retrieval system.

Control Data, I am told, expended about $3 million in compiling this material. In contrast, may I note that the entire Antitrust Division's budget is $12½ million. On that line another interesting figure is that when the Control Data case was settled IBM paid CDC $15 million "for costs and expenses of the litigation including fees and disbursements of counsel."

The irony of the situation is that as part of a settlement of their private case, Control Data a few weeks ago destroyed the index to the documents. Unless the court forces reconstruction of the index, Justice must start all over again.

There are those who think that such a burden is too much for the Division, and that the IBM case will never be prosecuted effectively because of this.

The situation demonstrates that we have only one choice if we persist in attempting to eradicate economic concentration by showing in each case exactly how it harms the Nation: make the Government agencies administering the antitrust laws more equally matched with their opponents.

We are hogtied on the time element involved in a major antitrust case. Look at the IBM case again. It is 4 years since it began and the best estimate is that another 2 to 3 years will lapse before completion—with the possibility of more time devoted to appeals. Obviously, if there is harm being done by corporations involved in major antitrust cases, the Nation must wait far too long for any relief that a governmental victory can bring.

Take another example: The Government's case against El Paso Pipeline was filed in 1957. It has three times been up to the Supreme Court—divestiture has been ordered and still El Paso owns the property that the Supreme Court has ordered sold.

Clearly, even with a many times larger Antitrust Division—and millions more dollars yearly—it would take a couple of centuries of "behavioral" cases to eradicate the economic concentration that haunts this country.

Time, I feel, is a luxury we do not have. Nor can I embrace the general idea—for I dislike giantism in Government for many of the same reasons I dislike it in industry: When the battle of the giants begins, the people will be more and more left out of the decisions.

My real fear is that we will forsake the antitrust route for dealing with the problems created by the lack of competition in the economy, and instead embrace direct Government regulation.

And one has only to look at the record for most governmental regulatory bodies, and wage and price controls which have been used off and on through the years, to see how inequitable and inefficient Government regulation is compared to competition.

Mr. President, the Industrial Reorganization Act which I reintroduce today would eliminate the burden of proving how monopoly is bad. In effect, it restates a basic credo of this country since its inception: Too much power in too few hands is incompatible with democracy.

In this I sign on with Senator Sherman—a Republican—who said back in 1890:

> If we will not endure a king as a political power we should not endure a king over the production, transportation and sale of any of the necessities of life. If we would not submit to an emperor we should not submit to an autocrat of trade, with power to prevent competition and to fix the price of any commodity.

It was the power itself that Senator Sherman—speaking for the majority of his day—feared. And it is power that we should fear today. In industry, a giant corporation has many, varied, and subtle impacts on competition in that industry.

Its hulking size has much to do with entry of competitors, behavior of competitors and competition in general in the industry. For example, a woman who was attempting to get financing to begin a small computer service corporation once told me that bank after bank turned her down. They apparently had no quarrel with her qualifications and abilities. But they simply shook their heads and said:

> How can you expect to make it when IBM dominates that industry?

The impacts are subtle and have absolutely nothing to do with the presence or lack of good intentions of the management of the big firm.

The industrial reorganization bill that I resubmit today would add what I believe are two important new wrinkles to antitrust enforcement procedures.

Trustbusters would no longer have to rely on evidence that defendant firms intended to create monopolies to control prices or to exclude competitors. Under this bill we would concern ourselves less with the intent of the defendant firms and more with the result of their actions.

The antitrust enforcement system would for the first time be geared to deal with the mechanics of dismantling monopolies—a necessary second step that the present system has trouble managing.

Mr. President, in addition to prescribing ways of determining if monopoly power is present and providing for its dissipation, the bill also establishes a special commission to study concentrated industries and develop plans to make them more competitive.

These plans would then be submitted to Congress for approval, rejection, or change.

The bill being reintroduced today is identical to the one I proposed last year as a dialog bill. Following its introduction last June, I circulated it widely among the top 200 corporations, antitrust experts, economists, and others for comment. Some valuable suggestions for modification were received and others are promised. I have not altered the bill at this time, because we plan to begin hearings on it within a few weeks at which time these and other suggestions can be considered.

Those hearings will begin late this month, and I invite anyone interested in participating to contact the Senate Antitrust Subcommittee.

Mr. President, I ask unanimous consent that the complete text of the Industrial Reorganization Act 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. 1167

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 "Industrial Reorganization Act". The Congress finds and declares that (1) the United States of America is committed to a private enterprise system and a free market economy, in the belief that competition spurs innovation, promotes productivity, preserves a democratic society; and provides an opportunity for a more equitable distribution of wealth while avoiding the undue concentration of economic, social, and political power; (2) the decline of competition in industries with oligopoly or monopoly power has contributed to unemployment, inflation, inefficiency, and underutilization of economic capacity, and the decline of exports, thereby rendering monetary and fiscal policies inadequate and necessitating Government market controls subverting our basic commitment to a free market economy; (3) the preservation of a private enterprise system, a free market economy, and a democratic society in the United States of America requires legislation to supplement the policy of the antitrust laws through new enforcement mechanisms designed to responsibly restructure industries dominated by oligopoly or monopoly power; (4) the powers vested in these new enforcement mechanisms are to be exercised to promote competition throughout the economy to the maximum extent feasible, and to protect trade and commerce against oligopoly or monopoly power.

TITLE I—POSSESSION OF MONOPOLY POWER

SEC. 101. (a) It is hereby declared to be unlawful for any corporation or two or more corporations, whether by agreement or not, to possess monopoly power in any line of commerce in any section of the country or with foreign nations.

(b) There shall be a rebuttable presumption that monopoly power is possessed—

(1) by any corporation if the average rate of return on net worth after taxes is in excess of 15 per centum over a period of five consecutive years out of the most recent seven years preceding the filing of the complaint, or

(2) if there has been no substantial price competition among two or more corporations in any line of commerce in any section of the country for a period of three consecutive years out of the most recent five years preceding the filing of the complaint, or

(3) if any four or fewer corporations account for 50 per centum (or more) of sales in any line of commerce in any section of the country in any year out of the most recent three years preceding the filing of the complaint.

In all other instances, the burden shall lie on the Industrial Reorganization Commission established under title II of this Act to prove the possession of monopoly power.

(c) A corporation shall not be required to divest monopoly power if it can show—

(1) such power is due solely to the ownership of valid patents, lawfully acquired and lawfully used, or

(2) such a divestiture would result in a loss of substantial economies.

The burden shall be upon the corporation or corporations to prove that monopoly power should not be divested pursuant to paragraphs (1) and (2) of the above subsection:

Provided, however, That upon a showing of the possession of monopoly power pursuant to paragraph (1), the burden shall be upon the Industrial Reorganization Commission to show the invalidity, unlawful acquisition, or unlawful use of a patent or patents.

TITLE III—INDUSTRIAL REORGANIZATION COMMISSION

DEFINITIONS

SEC. 201. As used in this title, the term—

(1) "industry" means all extractive, processing, smelting, refining, transporting, manufacturing, assembling, fabricating, constructing, financing, distributing, or other economic activity carried on in closely related parts of commerce;

(2) "registered corporation" means a firm required by the Commission to file a registration statement under section 205;

(3) "Commission" means the Industrial Reorganization Commission established under section 202;

(4) "Commissioner" means the Commissioner of the Commission;

(5) "person" means an individual, a corportion, a partnership, an association, a joint stock company, a business trust, or an unincorporated organization; and

(6) "security" means any note, stock, Treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or, in general, any interest or instrument commonly known as a "security', or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

ESTABLISHMENT OF COMMISSION

SEC. 202. (a) There is an independent agency to be known as the Industrial Reorganization Commission.

(b) The Commission shall be under the direction and supervision of a Commissioner, who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of seven and one-half years. Any individual appointed to fill a vacancy in such office occurring due to the death, resignation, or removal of the Commissioner shall serve only for the remainder of the term of his predecessor. The Commissioner shall continue to serve after the end of the term to which he was appointed until his sucessor has qualified. The Commissioner shall not engage in any other activity while holding office. The Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(c) The Commissioner shall appoint and fix the compensation of an Executive Director and such other officers, agents, and employees as he deems necessary to assist him in carrying out the duties of the Commission. The Executive Director shall be the chief administrative officer of the Commission, and he shall perform his duties under the direction and supervision of the Commissioner. The Commissioner may delegate any of his functions, other than the making of regulations, to the Executive Director.

(d) The Commission shall have an official seal which shall be judicially noticed.

(e) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(59) Commissioner, Industrial Reorganization Commission.".

(f) The Office of Management and Budget shall not inspect, examine, audit, or review the records or work of the Commission or comment on any budget request made by the Commission. The Comptroller General shall conduct such reviews, audits, and evaluations of the Commission as he deems necessary. All accounts, budgets, and records of the Commission shall be submitted to the General Accounting Office from time to time as the Comptroller General may require, and the Commission shall maintain, preserve, and make available for inspection by the General Accounting Office such records as the Comptroller general may require.

(g) Section 3502 of title 44, United States Code, is amended by inserting in the first paragraph (defining "Federal agency"), ", the Industrial Reorganization Commission" after "the General Accounting Office".

(h) The Commission shall terminate its operations fifteen years after the date of enactment of this Act, and the functions, jurisdiction, powers, and duties of the Commission shall be transferred to the Federal Trade Commission. Upon transfer, the Federal Trade Commission shall succeed the Commission as a party in any legal proceedings, and any judgment or decree of any court of the United States applicable to the Commission shall, at the discretion of that court, be applicable to the Federal Trade Commission.

DUTIES OF THE COMMISSION

SEC. 203. (a)(1) In order to determine whether or not any corporation, or two or more corporations, are in violation of title I of this Act, and develop a plan of reorganization to make competition more effective within each industry, the Commission shall study the structure, performance, and control of each of the following industries:

(A) chemicals and drugs;

(B) electrical machinery and equipment;

(C) electronic computing and communication equipment;

(D) energy;

(E) iron and steel;

(F) motor vehicles; and

(G) nonferrous metals.

(2) The Commission shall develop a plan of reorganization for each such industry whether or not any corporation is determined to be in violation of title I. In developing a plan of reorganization for any industry, the Commission shall determine for each such industry—

(A) the maximum feasible number of competitors at every level without the loss of substantial economies;

(B) the minimum feasible degree of vertical integration without the loss of substantial economies; and

(C) the maximum feasible degree of ease of entry at every level.

(3) The Commission shall study the collective-bargaining practices within each industry named in paragraph (1), and determine the effect of those practices on competition within that industry.

(4) The Commission shall report to the Congress not later than June 30 in each odd-numbered year with respect to the status of each study undertaken under paragraph (1), (2), or (3) and each plan to be developed under paragraph (2), together with such recommendations, including recommendations for legislation as it deems necessary. Such legislative recommendations may include, but are not limited to, amendments to the antitrust laws, the Internal Revenue Code, the patent laws, and the National Labor Relations Act. The Commission may also report to Congress upon the effect on competition of the policies of executive or regulatory agencies of Government together with such recommendations, including recommendations for legislation, as it deems necessary.

(5) The Commission shall prosecute violations of title I of this Act.

(b) The Commission shall enforce the provisions of title I of this Act by filing a complaint and proposed order of reorganization with the Industrial Reorganization Court, established under title III of this Act, in accordance with the provisions of that title.

(c) Whenever the Commission obtains information under this title which furnishes a reasonable basis for inferring that any corporation or person has acted in violation of any law of the United States other than title I or of any State relating to trade or commerce, it shall notify the appropriate law enforcement official. The Commission shall furnish information obtained under this title to the Attorney General of the United States, the Federal Trade Commission, the Federal Power Commission, the Securities and Exchange Commission, and any other Federal regulatory or administrative body upon request, and whenever the Commission obtains information under this title which furnishes a reasonable basis for inferring that a corporation may act in violation of section 7 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" approved October 15, 1914, as amended (38 Stat. 731; 15 U.S.C. 18), it shall notify the Attorney General of the United States and the Federal Trade Commission, and furnish to them the information upon which that inference is based.

POWERS OF THE COMMISSION

SEC. 204. (a) The Commission shall have power—

(1) to conduct studies of the structure, performance, and control of any industry and its collective-bargaining practices directly or by contract or other arrangement;

(2) to require corporations in industries named in section 203(a), or any person who the Commission shall have reason to believe affects the structure, performance or control of any such industry, to file registration statements in such form as the Commission may require in order to carry out the provisions of section 203(a);

(3) to require periodic and special reports and such other information of corporations, from time to time, as may be necessary to carry out the provisions of this Act, including but not limited to reports by product or line of commerce;

(4) to inspect and examine accounts, procedures, correspondence, memorandums, papers, books, and other records under section 205;

(5) to require interlocking relationship reports and securities control reports by officers, directors, or persons, directly or indirectly, controlling, exercising, or executing the right to vote of 1 per centum or more of any class of securities for any registered corporation under section 206;

(6) to furnish information to the appropriate Federal or State law enforcement official whenever the Commission determines, on the basis of information received by it, that there may be or has been a violation of the Federal or State law;

(7) to sue and be sued in its own name and appear by its own counsel in any legal proceedings brought by or against it;

(8) to request and obtain from any executive department or agency any information or assistance it deems necessary to carry out the duties under this title;

(9) to prosecute complaints before, and submit proposed orders of reorganization to, the Industrial Reorganization Court established under title III of this Act;

(10) to carry out such investigations as may be appropriate to determine whether there is any violation of any provision of this Act;

(11) to sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and production of such books, records, correspondence, memorandums, papers, and documents at it deems advisable, to administer oaths or affirmations to witnesses appearing before it;

(12) to disclose by publication, or otherwise to make available upon request, any information (other than trade secrets or

processes) it deems appropriate for public disclosure, subject to the provisions of section 207;

(13) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $125 a day for individuals;

(14) to issue such regulations, orders, and reports as may be necessary to carry out the provisions of this title; and

(15) to take such other actions as may be necessary to enable it to carry out its duties under the provisions of this title.

(b) Each executive department and agency is required to the extent permitted by law, to furnish information and assistance to the Commission, with or without reimbursement therefor, upon request by the Commission.

(c) Subpenas shall be issued under the signature of the Commissioner or Executive Director and may be served by any person designated. In the case of contumacy or refusal to obey a subpena issued under paragraph (11) of subsection (a) by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such court, upon application made by the Commission, shall have jurisdiction to issue to such person an order requiring such persons to appear before the Commission or an employee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of such persons to obey any such order of the court may be punished by the court as a contempt thereof.

REGISTRATION STATEMENTS; REPORTS; RECORDS

SEC. 205. (a) Any corporation or any person required by the Commission to register under section 204(a)(2) shall file with the Commission a registration statement and such additional reports and information as the Commission may require from time to time.

(b) Each registration statement shall contain—

(1) a copy of the corporate charter, articles of incorporation, partnership agreement, or other agreement or document under which that corporation is organized and doing business;

(2) a copy of such related documents, including but not limited to, bylaws, indentures, mortgages, trust indentures, underwriting agreements, and voting trust agreements, as the Commission may require; and

(3) such additional information and documents as the Commission may require, including but not limited to—

(A) a statement of the organizational and financial structure of the corporation and the nature of the business in which the corporation is engaged;

(B) a statement of the terms, position, rights, and privileges of each class of security which the corporation has authorized and/or outstanding;

(C) a statement of the underwriting arrangements, and copies of the underwriting agreements, under which the corporation's securities have been offered to the public or otherwise during the preceding five years, and a statement of the relationship of the underwriters of the securities to the corporation and/or to its officers or directors and the interest of those underwriters in the corporation:

(D) a statement of the names and addresses of the directors and principal officers of the corporation, the compensation paid to them directly or indirectly, their interest in the securities of, their contracts with, and their borrowings from, the corporation;

(E) a list of the name and address of, and amount of each class of securities held by each shareholder of the corporation;

(F) a statement of the corporation's bonus, profit sharing, and stock option plans;

(G) a copy of any contract to which the corporation is a party; and

(H) a copy of any balance sheet, financial statement, profit and loss statement, or any other report for any product or line of commerce in any section of the country or with foreign nations for any of the preceding seven years, in such form as the Commission may require, and certified, if required by the Commission, by an independent public accountant.

(c) In addition to the registration statement, the Commission may require the filing with it of additional reports of a periodic or special nature necessary to enable it to supplement or bring up to date information contained in registration statements, including, but not limited to, answers to questions raised by the Commission, the minutes of directors', stockholders', or other meetings, and additional information on the financial condition, security structure, security holdings, and assets of a corporation.

(d) Each registered corporation shall keep and preserve such records, accounts, and other documents as the Commission may require, and shall make all of its records, documents, memorandums, correspondence, accounts, and cost accounting procedures available for inspection at reasonable time by Commission employees.

REPORTS BY OFFICERS, DIRECTORS, AND OTHER PERSONS

SEC. 206. (a) Any person who is a director or officer of a registered corporation shall file a report under this section with the Commission in such form and at such times as the Commission may require. The report shall contain—

(1) a list of the name and address of, and amount of securities held beneficially and/or of record in any other corporation by any officer or director;

(2) if required by the Commission, a report of changes in the securities ownership in any other corporation; and

(3) a list of the name and address of each other corporation of which that person is an officer, director, or employee.

(b) Any person who, directly or indirectly, through one or more persons, owns beneficially or of record or controls, exercises, or executes the right to vote, 1 per centum or more of any class of security or any security convertible into or exchangeable, with or without additional consideration, for 1 per centum or more of any class of security of any registered corporation or if the aggregate percentages of the classes total 1 per centum or more, shall file a report under this section with the Commission in such form and at such times as the Commission may require. The percentage is to be calculated on the basis of the number of shares of, or for debt securities the face amount of, any class of security actually outstanding. If not a natural person, the Commission shall require such additional information as may be necessary to carry out the purpose of this subsection.

PUBLIC DISCLOSURE OF INFORMATION

SEC. 207. (a) When the public disclosure of information obtained under this title would be in the public interest as determined by the Commission, the Commission may, after notice of the appropriate corporation or person, make that information available to the public, under such charges and conditions as the Commission may prescribe.

(b) Any person filing a registration statement, report, notification, or other document with the Commission may object to public disclosure of any or all of the information by filing a petition with the Industrial Reorganization Court established pursuant to title III of this Act, in accordance with the provisions of that title.

(c) It shall be unlawful for any officer or employee of the Commission—

(1) to disclose any patent application, trade secret, or secret process contained in any document filed with the Commission or obtained under this title except as necessary to carry out his duties under this title; and

(2) to disclose to any other person any information contained in any document filed with the Commission or obtained under this title, except as provided in this title or in order to carry out his duties under this title, or to use any such information for personal benefit, unless that information has been made available to the public under subsection (a), for a reasonable period of time prior to such use.

PENALTIES

SEC. 208. Any person who violates any provision of this title shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding $500,000, if not a natural person, or if a natural person, $100,000, or by imprisonment not exceeding one year, or both.

AUTHORIZATION OF APPROPRIATIONS

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

TITLE III—ESTABLISHMENT OF INDUSTRIAL REORGANIZATION COURT

ESTABLISHMENT OF COURT

SEC. 301. (a) Part I of title 28, United States Code, is amended by inserting after chapter 11 thereof the following new chapter:

"Chapter 12—INDUSTRIAL REORGANIZATION COURT

"Sec.
"271. Appointment and number of judges.
"272. Precedence of judges.
"273. Tenure and salaries of judges.
"274. Sessions.
"275. Division of business.
"276. Single-judge trials.
"277. Three-judge trials.
"278. Vacant judgeship.
"279. Publication of decisions.
"280. Bias or prejudice of judge.
"281. Report of court proceedings.

"§271. Appointment and number of judges

"The President shall appoint, by and with the advice and consent of the Senate, a chief judge and 14 associate judges who shall constitute a court of record known as the United States Industrial Reorganization Court. Such court is hereby declared to be established under article III of the Constitution of the United States.

"§ 272. Precedence of judges

"The chief judge of the Industrial Reorganization Court shall have precedence and preside at any session of the court which he attends.

"The other judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

"§ 273. Tenure and salaries of judges

"The chief judge and associate judges of the Industrial Reorganization Court shall hold office during good behavior. Each shall receive a salary of $40,000 per year.

"§ 274. Sessions

"The Industrial Reorganizaton Court may hold court at such times and places as it may fix by rule.

"§ 275. Division of business

"The business of the Industrial Reorganization Court shall be divided among the judges as provided by the rules and orders of the court.

"The chief judge of the Industrial Reorganization Court shall be responsible for the observance of such rules and orders and shall

divide the business and assign the cases so far as such rules and orders do not otherwise prescribe.

"§ 276. Single-judge trials

"Except as otherwise provided in section 277 of this title, the judicial power of the Industrial Reorganization Court with respect to any case, suit, or proceeding, shall be exercised by a single judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other judges.

"§ 277. Three-judge trials

"(a) Upon application of any party to a civil action, or upon his own initiative, the chief judge of the Industrial Reorganization Court shall designate any three judges of the court to hear and determine any civil action which the chief judge finds—

"(1) raises an issue of the constitutionality of an Act of Congress, a proclamation of the President, or an Executive order; or

"(2) has broad or significant implications in the administration or interpretation of the Industrial Reorganization Act.

"(b) A majority of the three judges designated may hear and determine the civil action and all questions pending therein.

"§ 278. Vacant judgeship

"When the office of a judge becomes vacant, all pending process, pleadings, and proceedings shall, when necessary, be continued by the clerk until a judge is appointed or designated to hold such court.

"§ 279. Publication of decisions

"All decisions of the Industrial Reorganization Court shall be preserved and open to inspection. The court shall forward copies of each decision to the Industrial Reorganization Commission.

"§ 280. Bias or prejudice of judge

"Whenever a party to any proceeding in the Industrial Reorganization Court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding on such petition and affidavit.

"The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith.

"§ 281. Report of court proceedings

"The Industrial Reorganization Court is authorized to contract for the reporting of all proceedings made in open court, and in such contract to fix the terms and conditions under which such reporting services shall be performed including the terms under which transcripts shall be supplied by the contractor to the court and other persons, departments, and agencies."

(b) The chapter analysis of part I of such title is amended by inserting after the item relating to chapter 11 of the following:

"12. Industrial Reorganization Court... 271".

(c) Section 451 of such title is amended by inserting—

(1) in the first paragraph (defining "court of the United States") ", the Industrial Reorganization Court" after "the Customs Court";

(2) in the third paragraph (defining "judge of the United States") ", Industrial Reorganization Court" after "Customs Court".

OFFICERS AND EMPLOYEES

SEC. 302. (a) Part III of title 28, United States Code, is amended by inserting after chapter 55 the following new chapter:

"Chapter 56—INDUSTRIAL REORGANIZATION COURT

"Sec.
"911. Clerk and employees.
"912. Marshal and deputy marshals.
"913. Bailiffs and messengers.

"§ 911. Clerk and employees

"The Industrial Reorganization Court may appoint a clerk and such assistant clerks, stenographic law clerks, clerical assistants, and other employees as may be necessary, all of whom shall be subject to removal by the court. The clerk shall pay into the Treasury all fees, costs, and other moneys collected by him.

"§ 912. Marshal and deputy marshals

"The Industrial Reorganization Court may appoint a marshal and deputy marshals, who shall be subject to removal by the court.

"The marshal and his deputy marshals shall attend court at its sessions, serve and execute all process and orders issued by it, and exercise the powers and perform the duties concerning all matters within such court's jurisdiction assigned to them by the court.

"Under regulations prescribed by the Director of the Administrative Office of the United States Courts, the marshal shall pay the salaries, office expenses, and travel and subsistence allowances of the judges, officers, and employees of the court, and shall disburse funds appropriated for all expenses of the court.

"On all disbursements made by the marshal of the Industrial Reorganization Court for official salaries, the certificate of the payee shall be sufficient without verification on oath.

"United States marshals for other districts where sessions of the court are held shall serve as marshals of the court.

"§ 913. Bailiffs and messengers

"The Industrial Reorganization Court may appoint necessary bailiffs and messengers who shall be subject to removal by the court.

"Each bailiff shall attend the court, preserve order, and perform such other necessary duties as the court directs."

(b) The chapter analysis of part III of such title is amended by inserting after the item relating to chapter 55 the following:

"56. Industrial Reorganization Court... 911".

(c) Section 610 of such title is amended by striking out "and the Customs Court" and inserting "the Customs Court, and the Industrial Reorganization Court".

JURISDICTION

SEC. 303. (a) Part IV of title 28 is amended by adding at the end thereof the following new chapter:

"Chapter 96—INDUSTRIAL REORGANIZATION COURT

"Sec.
"1591. Powers generally.
"1592. Jurisdiction.
"1593. Restoration of effective competition.
"1594. Enforcement of competitive orders; appointment of trustees; disposition of assets.
"1595. Time for complying with orders.

"§ 1591. Powers generally

"The Industrial Reorganization Court and each judge thereof shall possess all the powers of a district court of the United States for preserving order, compelling the attendance of witnesses, and the production of evidence.

"§ 1592. Jurisdiction

"(a) The Industrial Reorganization Court shall have original jurisdiction to hear and determine all complaints and proposed orders of reorganization filed by the Industrial Reorganization Commission under title I of the Industrial Reorganization Act.

"(b) After the Industrial Reorganization Commission has filed a complaint and proposed order of reorganization, the Industrial Reorganization Court shall enter a judgment determining whether a corporation or two or more corporations possess monopoly power in any part of trade or commerce among the several States or with foreign nations.

"(c) The Industrial Reorganization Court shall also have original jurisdiction of petitions filed pursuant to section 207 of title II of this Act and of such other proceedings under that Act as the court shall deem necessary and appropriate to effectuate its purposes.

"§ 1593. Restoration of effective competition

"(a) Any corporation or two or more corporations may, within sixty days from the entry of judgment pursuant to section 1592 (b), file an alternate proposed order or orders of reorganization.

(b) file an alternative proposed order or reorganization, the Industrial Reorganization Court shall conduct a proceeding to determine whether or not the proposed order or orders of reorganization would restore effective competition. In making its determination, the court may call witnesses in accordance with the provisions of sections 2652 and 2653 of this title.

"(c) The court shall enter an order of reorganization appropriate to effectuate the purposes of this Act. The order of reorganization may require a corporation or two or more corporations to take such action as the court shall find necessary to restore effective competition. The order may include—

"(1) a requirement that a corporation modify any contract to which it is a party, terminate any agreement with another corporation, or modify its methods of distribution;

"(2) a requirement that a corporation grant licenses (with or without provision for the payment of royalties) under any patent, copyright, or trademark owned by that corporation, share technical information with others, or dispose of any such patent, copyright, or trademark;

"(3) a requirement that a corporation divest itself of particular assets, including tangible and intangible assets, cash, stock, securities, accounts receivable, and other obligations; and

"(4) such other requirements as the court may find necessary to restore effective competition.

"(d) Any order entered under this section shall be subject to judicial review as provided in section 2114 of this title.

"§ 1594. Enforcement of orders of reorganization; appointment of trustee; disposition of assets

"The Industrial Reorganization Commission may apply to the Industrial Reorganization Court to enforce compliance with any order issued under section 1593 of this title. In any such proceeding the court as a court of equity may, to such extent as it deems necessary for purposes of enforcement of such order, take exclusive jurisdiction and possession of the corporation or any portion thereof, and the assets, or any portion thereof, wherever located; and the court shall have jurisdiction, in any such proceeding to appoint a trustee, and the court may constitute and appoint the Commission as sole trustee to hold and administer under the direction of the court, the assets so possessed. In any proceeding for the enforcement of an order of the court issued under section 1593 of this title, the trustee, with the approval of the court, shall have power

to dispose of any or all of such assets and, subject to such terms and conditions as the court may prescribe, may make such disposition in accordance with the order to restore effective competition, which shall have been approved by the court after opportunity for hearing.

"In any proceeding under this section, the court shall not appoint any person other than the Commission as trustee or receiver without notifying the Commission and giving it an opportunity to be heard before making any such appointment.

"§ 1595. Time for complying with orders

"Any order under section 1593 of this title shall be complied with within two years from the date of such order and the Industrial Reorganization Court shall, upon a showing (made before or after the entry of such order) that the corporation has been or will be unable in the exercise of due diligence to comply with such order within such time, extend such time for an additional period not exceeding two years, if it finds such extension necessary or appropriate in the public interest."

(b) The chapter analysis of part IV is amended by inserting after the item relating to chapter 95 the following:

"96. Industrial Reorganization Court.. 1591".

REVIEW OF DECISIONS

SEC. 304. (a) Part V of title 28 is amended by adding at the end thereof the following new section:

"§ 2114. Review of Industrial Reorganization Court orders

"(a) In any proceeding brought in the Industrial Reorganization Court, an appeal from the final order of the Industrial Reorganization Court will lie only to the Supreme Court.

"(b) The scope of review on appeal of any Industrial Reorganization Court order to the Supreme Court under this section shall be limited to: (1) whether or not the Industrial Reorganization Court proceeded correctly under the provisions of this title; and (2) whether or not the findings of fact of the Industrial Reorganization Court are supported by substantial evidence."

(b) The table of sections of chapter 133 of such title is amended by adding at the end thereof the following:

"2114. Review of Industrial Reorganization Court orders.".

PROCEDURE

SEC. 305. (a) Part VI of title 28, United States Code, is amended by inserting after chapter 169 the following new chapter:

"Chapter 170—INDUSTRIAL REORGANIZATION COURT PROCEDURE

"Sec.
"2651. Rules of procedure.
"2652. Expert witnesses.
"2653. Other witnesses.

"§ 2651. Rules of procedure

"Proceedings of the Industrial Reorganization Court shall be conducted pursuant to the Federal Rules of Civil Procedure in effect at the time, subject to such additional rules (which may supersede or supplement the Federal Rules of Civil Procedure) as shall be adopted by the court for the purposes of proceedings before it under this title.

"§ 2652. Expert witnesses

"In any proceedings before it under this title, the Industrial Reorganization Court may designate one or more economists or other persons to serve as expert witnesses to be called by the court. Such witness or witnesses (a) may be furnished with all the evidence introduced by any party; (b) may offer additional evidence subject to objection by any party; (c) may offer an analysis of issues with particular reference to orders proposed to restore effective competition; (d) may recommend appropriate provisions for orders proposed to restore effective competition; and (e) shall be subject to cross-examination and rebuttal.

"§ 2653. Other witnesses

"In any proceeding before it under this title, the Industrial Reorganization Court may call as a witness any person it deems necessary to effectuate the purposes of this Act. Such witnesses may include, but is not necessarily limited to, competitors, suppliers, customers, sources of capital, creditors, consumers, employees, or shareholders."

(b) The chapter analysis of part VI is amended by inserting after the item relating to chapter 169 the following:

"170. Industrial Reorganization Court procedure ---------- 2651".

By Mr. HUMPHREY

S. 1168. A bill to provide for the establishment of an Older Workers Conservation Corps, and for other purposes. Referred to the Committee on Labor and Public Welfare.

OLDER WORKERS CONSERVATION CORPS

Mr. HUMPHREY. Mr. President, I am today reintroducing for appropriate reference, a bill to provide for a major expansion of job opportunities for older Americans—S. 3208 in the last Congress.

Mr. President, it is almost beyond comprehension to me that we have ignored the employment needs of older Americans, despite the tremendous expansion of manpower assistance to other groups in the last decade. The unemployment rate of people 55 and over was 10.3 percent at the end of 1972—including some 425,000 unemployed. Yet, out of 909,200 enrollees in manpower programs during fiscal 1972, only 3.7 percent—or 33,210 individuals—were age 55 and over.

Rarely has a Government program been designed so well to exclude those who most need its help, as have our manpower programs. This exclusion is little short of a national scandal. Clearly many of the 6 million people 55 and over who are now in poverty would not be there if employment were available.

It seems as though the Government has completely given up on the idea that older people have the right to expect help in finding employment and training once they lose a job. Yet there are countless numbers of older people who are supporting themselves and getting greater satisfaction from life by being active and working. A recent report by the Department of Health, Education, and Welfare, in fact, finds a direct correlation between continued activity and sustained health during older years.

Mr. President, under my bill, an Older Workers Conservation Corps program would be established which would be administered by the Secretaries of Agriculture and Interior. This program would promote useful part-time work opportunities in various conservation and environmental improvement activities for unemployed low-income persons who are 55 years old and older and who have poor employment prospects.

This program is designed to supplement—not replace—the vital pilot projects under Operation Mainstream, administered through the Department of Labor, and providing training and limited employment to disadvantaged older persons in important community service projects. It has become clearly evident that a Government-wide emphasis must be placed upon the establishment of effective and comprehensive community service programs for older Americans across the Nation, to meet both their critical income needs and to enable our States and cities to provide essential social services and community improvement services.

Problems of inadequate income and joblessness are particularly severe among older Americans living in rural areas. That is why, in addition to again jointly sponsoring major legislation to establish comprehensive community service programs for and by older persons across America, I am again introducing this bill to provide good job opportunities at a fair wage for thousands of older Americans in our rural counties. They want to work, not wait still longer in destitution and despair. They want to continue to share in the development and improvement of our country, not be pushed aside and told to get along on meager savings and accept their isolation from society. And after long years of hard work, they deserve the security of a livable income, not the sudden cancellation of pension rights from job layoffs.

The Older Workers Conservation Corps can play an important role in achieving these goals, through providing employment to thousands of older Americans in areas of conservation, beautification, environmental improvement, and community development projects.

Mr. President, I ask unanimous consent that the full text of the Older Workers Conservation Corps Act be printed in the RECORD.

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

S. 1168

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 "Older Workers Conservation Corps Act".

SEC. 2. (a) In order to foster and promote useful part-time work opportunities in various and related conservation activities for unemployed low-income persons who are fifty-five years old and older and who have poor employment prospects, the Secretaries of Agriculture and Interior (hereinafter referred to as the Secretaries) are authorized to establish an Older Workers Conservation Corps (hereinafter referred to as the "program").

(b) In order to carry out the provisions of this Act, the Secretaries are authorized:

(1) to enter into agreements where feasible with public or private nonprofit agencies or organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretaries in order to make the program effective or to supplement it. No payment shall be made by the Secretaries toward the cost of any project established or administered by any organization or agency unless they determine that such projects—

(A) will provide employment only for eligible individuals except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) will provide employment in the immediate areas in which the individuals reside;

(C) will employ eligible individuals in projects related to publicly owned and operated facilities and projects or projects sponsored by organizations exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954 (other than political parties), except projects involving the construction, operation, or maintenance of any facility used or to be used as a place of sectarian religious instruction or worship;

(D) will contribute to the general welfare of the Nation, State, and community;

(E) will provide employment for eligible individuals who do not have opportunities for other suitable public or private paid employment, other than projects supported under the Economic Opportunity Act of 1964, or under this Act;

(F) will result in an increase in employment opportunities for eligible individuals and will not result in the displacement of employed workers or impair existing contracts;

(G) will utilize methods of recruitment and selection which will assure that the maximum number of eligible individuals will have an opportunity to participate in the program;

(H) will include short-term training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating;

(I) will assure that safe and healthy conditions of work will be provided, and will assure that persons employed under such program will be paid rates comparable to the rates of pay prevailing in the same labor market area for persons in similar occupations, but in no event shall any person employed under such program be paid at a rate less than that prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;

(J) will be established or administered with the advice of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons; and

(K) will authorize pay for transportation costs of eligible participants which may be incurred in employment in any project funded under this Act in accordance with regulations promulgated by the Secretaries; and

(2) to make, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this Act.

(c)(1) The Secretaries are authorized to pay not to exceed 90 per centum of the cost of any project which is the subject of an agreement entered into under subsection (b), except that the Secretaries are authorized to pay all of the cost of any such project which is (A) an emergency or disaster project or (B) a project located in an economically depressed area or (C) projects involving federally owned, operated, or supervised lands.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretaries are authorized to attribute fair market value to services and facilities contributed from non-Federal sources.

ADMINISTRATION

SEC. 3. (a) In carrying out the provisions of this Act, the Secretaries are authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities.

(b) The Secretaries shall establish criteria designed to assure equitable participation in the administration of the Older Workers Conservation Corps projects by agencies and organizations eligible for payment under section 2(b).

(c) The Secretaries shall not delegate their functions and duties of this Act to any other department or agency of the Government.

PARTICIPANTS NOT FEDERAL EMPLOYEES

SEC. 4. (a) Eligible individuals who are employed in any project funded by this Act shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

(b) No contract shall be entered into under this Act with a contractor who is or whose employees are under State law exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide through insurance by a recognized carrier, or by self-insurance, as allowed by State law, that the persons employed under the contract, shall enjoy workmen's compensation coverage equal to that provided by law for covered employment.

INTERAGENCY COOPERATION

SEC. 5. The Secretaries shall establish jointly an interagency advisory board with a view to achieving optional coordination of such program.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 6. The Secretaries of Agriculture and Interior shall share equally in the distribution of funds appropriated to carry out the provisions of this Act.

DEFINITIONS

SEC. 7. As used in this Act:

(a) "State" means any of the several States of the United States and the District of Columbia.

(b) "Eligible individuals" means an individual who is fifty-five years old or older, who has a low income and who has or would have difficulty in securing employment.

(c) "Conservation" means maintenance or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; recreational development; and other such projects which are essential and necessary to the community, States, and Nation as the Secretaries, by regulation, may prescribe.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are hereby authorized to be appropriated $130,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for fiscal year ending June 30, 1975.

By Mr. FULBRIGHT (by request):

S. 1170. A bill authorizing continuing appropriations for Peace Corps. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to amend the Peace Corps Act authorizing continuing appropriations for the next 2 fiscal years.

The bill has been requested by the Acting Director of ACTION and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Acting Director of ACTION to the Vice President dated March 1, 1973.

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

S. 1170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first phrase of section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b), ending with a colon, is amended to read as follows, "There are authorized to be appropriated to the President for the Fiscal Year 1974 not to exceed $77,001,000 and for the Fiscal Year 1975 such sums as may be necessary to carry out the purposes of this Act."

ACTION,
Washington, D.C., February 27, 1973.

Hon. SPIRO AGNEW,
President of the Senate.

DEAR MR. PRESIDENT: I am transmitting herewith a proposed bill amending the Peace Corps Act to authorize appropriations for Peace Corps for the next two fiscal years.

The bill would authorize the appropriation of $77,001,000 for FY 1973, and such sums as may be necessary to carry out the purposes of the Peace Corps Act for FY 1975.

The bill is necessary to provide this agency with the authority and flexibility to successfully operate the Peace Corps. I recommend its prompt enactment.

We are advised by the Office of Management and Budget that enactment of this legislation would be in accord with the program of the President.

Sincerely yours,

WATER C. HOWE,
Acting Director of ACTION.

By Mr. FULBRIGHT (by request):

S. 1171. A bill to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations, and for other purposes. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to amend the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–301), to provide authorization for appropriations for the buildings program for fiscal years 1974 and 1975 and to amend portions of the basic statute.

The bill has been requested by the Acting Assistant Secretary of State for Congressional Relations and I am introducing this bill in order that there may be specific legislation to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Acting Assistant Secretary of State for Congressional Relations to the Vice President dated February 23, 1973.

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

S. 1171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 295), is further amended—

By adding the following new paragraph subsection (g):

"(g) In addition to amounts authorized before the date of enactment of this subsection, there is hereby authorized to be appropriated to the Secretary of State—

(1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this act, and for major alterations of buildings acquired under this act, for fiscal years 1974 and 1975, $13,811,000, of which not to exceed $4,511,000 may be appropriated for fiscal year 1974; and,

(2) for use to carry out other purposes of this act for fiscal years 1974 and 1975, $45,800,000, of which not to exceed $21,700,000 may be appropriated for fiscal year 1974.

Sec. 2. Former subsection (g) of section 4 is hereby redesignated subsection (h) and subparagraph (2) of that subsection is deleted and the following submitted in lieu thereof:

"(2) In addition to such sums as are authorized by paragraph subsection (g), above, there are hereby authorized to be appropriated to the Secretary of State such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and other nondiscretionary costs."

DEPARTMENT OF STATE,
Washington, D.C., February 23, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Department of State enclosed and recommends for your consideration proposed legislation to amend the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–301) to provide authorization for appropriations for the Buildings Program for fiscal years 1974 and 1975 and to amend portions of the basic statute.

The authorized levels sought by this bill are $13,811,000 for the capital program and $45,800,000 for the operating expenses of the Program for fiscal years 1974 and 1975 under the combined regular appropriation (Acquisition, Operation and Maintenance of Buildings Abroad) and the Special Foreign Currency Program (under Public Law 480 of 1954).

The Department of State has been informed by the Office of Management and Budget that there is no objection to this proposal from the standpoint of the Administration's program.

A letter similar in content is being sent to the Speaker of the House.

Sincerely yours,

MARSHALL WRIGHT,
Acting Assistant Secretary for Congressional Relations.

By Mr. ERVIN (by request):

S. 1172. A bill to amend the act of August 25, 1958, as amended, and the Presidential Transition Act of 1963. Referred to the Committee on Government Operations.

Mr. ERVIN. Mr. President, I introduce, by request, a bill to amend the act of August 25, 1958, as amended, and the Presidential Transition Act of 1963.

This legislation was requested by the General Services Administration and I ask unanimous consent that a copy of the bill and a letter from the Acting Administrator of the General Services Administration explaining the need for its consideration and enactment be printed in the RECORD.

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

S. 1172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of August 25, 1958 (72 Stat. 838), as amended, is further amended by:

(a) deleting the last two sentences of section 1(b), and inserting in lieu thereof: "Each former President shall fix basic rates of compensation for persons employed for him under this subsection. The annual rate of compensation payable to any such person shall not exceed the annual rate of basic pay now or hereafter provided for positions at level II of the Executive Schedule (5 U.S.C. 5313; 2 U.S.C. 358, note)." and

(b) adding at the end of the Act, the following new section:

"SEC. 2. This Act, other than subsections (a) and (e) of section 1, shall not become effective with respect to a former President until the end of the fiscal year next succeeding the fiscal year in which his term of office as President expired."

SEC. 2. The Presidential Transition Act of 1963 (78 Stat. 153; 3. U.S.C. 102, note), is amended as follows:

(a) by deleting the first sentence of section 4, and substituting therefor the following: "The Administrator is authorized to provide, upon request, to each former President and each former Vice President, for the period commencing from the date of expiration of his term of office as President or Vice President, and ending not later than June 30 of the succeeding fiscal year, for use in connection with winding up the affairs of his office, necessary services and facilities of the same general character as authorized by this Act to be provided to Presidents-elect and Vice Presidents-elect.";

(b) by deleting the last sentence of section 4; and

(c) by deleting the first sentence of section 5 and substituting therefor the following: "There are hereby authorized to be appropriated to the Administrator such funds as may be necessary for carrying out the purposes of this Act, but not to exceed $1,500,000 for any one Presidential transition. Of any amount so appropriated, sixty percent shall be available for the purposes of section 3 of this Act, and within the period prescribed in section 3(b) of this Act. Forty percent of the amount so appropriated shall be available during the remainder of the fiscal year in which the transition occurs and the next succeeding fiscal year for the purposes of section 4 of this Act."

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., January 29, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith for referral to the appropriate Committee a draft of legislation "To amend the Act of August 25, 1958, as amended, and the Presidential Transition Act of 1963."

The bill would accomplish three things: (1) remove the limitation on compensation payable to members of a former President's staff; (2) extend the period of availability of transition funds to an outgoing President or Vice President; and (3) increase from $900,000 to $1,500,000 the authorization for appropriations for carrying out a Presidential transition.

In a report to the Congress dated November 16, 1970, entitled "Federal Assistance for Presidential Transitions," the Comptroller General of the United States states that the Congress may wish to consider: (1) providing for adjustment of the overall limit on compensation of the former President's staff in line with pay raises, or eliminating the limitation; (2) extending the period of availability of funds to the former President and Vice President; and (3) increasing the funds authorized for the incoming President and Vice President.

The first recommendation concerns funds available to former Presidents under the Act of August 25, 1958, commonly known as the Former Presidents Act, after termination of fund availability under the Presidential Transition Act. At present, the compensation of a member of the former President's staff may not exceed that of positions at Level II of the Executive Schedule. The aggregate compensation for the staff may not exceed $96,000 per year. Thus, while individual staff salaries are tied to Executive Level pay scales which are increased periodically, the overall limitation is fixed by statute. The draft bill would eliminate the provisions restricting aggregate salaries of members of a former President's staff. We believe this, the second of the Comptroller General's alternative recommendations, to be preferable to the first, under wnich the overall limit on staff compensation would be adjusted in line with pay raises. Elimination of the limitation, for which there appears to be no compelling need, would avoid the needless complexity of a formula for periodic increases as Executive Schedule and General Schedule salaries are increased.

We believe it more appropriate to allow each former President to determine for himself what portion of the funds appropriated for his use would be used for staff salaries.

The second recommendation concerns the period of availability of transitional funds to the outgoing administration. The Presidential Transition Act provides that services and monies appropriated thereunder for a former President or Vice President shall be available for a period of six months from the date of expiration of the term of office. After this period, funds at a much-reduced level are available to a former President under the Former Presidents Act. No further provision is made for a former Vice President. Under the ratio used in the 1968–69 transition, the average monthly rate would be $62,500 for the former President and $12,500 for the former Vice President; and at the end of the six-month period, $8,000 for the former and nothing for the latter.

The experience of the latest transition indicates that a longer period of availability of funds under the Presidential Transition Act is desirable, since the burdens of former Presidents and Vice Presidents, while greatest in the months immediately after leaving office, do not decline as rapidly as the six-month limitation implies. The screening of President Johnson's papers prior to release to the presidential library had hardly begun when the funds would have terminated had it not been for the appropriation language in the Independent Offices and Department of Housing and Urban Development Appropriation Act, 1969, which made the funds available until June 30, 1970. In light of this experience, the draft bill not only would make the funds available until June 30 of the fiscal year succeeding the expiration of the term of office, but would increase the maximum authorization to the outgoing Administration from $450,000 to $600,000.

As to the third recommendation, the law presently provides $900,000 for Presidential transition expenses, and is silent on how this amount is to be divided between incoming and outgoing administrations. It was divided equally in the case of the 1968–69 transition, this intention having been adduced from the legislative history—specifically, a comment by Senator Warren G. Magnuson appearing in the CONGRESSIONAL RECORD, volume 114, part 17, page 22005.

The present Administration having spent an estimated $1,500,000 in the transition process, the General Accounting Office found the provision of $450,000 to be clearly inadequate. The Comptroller General's report refers to the existence, in uncertain proportion, of both quasi-official and political responsi-

bilities of Presidents-elect and Vice Presidents-elect. We concur in their belief that, although there is no objective means of determining the proportion in which total expenses should be borne by public and private funds, the Federal assistance must cover a substantial part of the transition expenses if the Presidential Transition Act is to function as intended. The draft bill would increase the total authorization to $1,500,000 with 60% of any amount appropriated to be available to the incoming administration and 40% to the outgoing. This would raise the ceiling from $450,000 to $900,000 for the incoming Administration, and from $450,000 to $600,000 for the outgoing. Although the Comptroller General has not specifically recommended an increase for the outgoing administration, the need therefor is implicit in the first and second recommendations, discussed above.

It is believed that the draft bill would provide more equitable treatment to both incoming and outgoing Presidents and Vice Presidents, and make for a more orderly and efficient transition. We urge its prompt introduction and enactment.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this proposed legislation to the Congress.

Sincerely,

ARTHUR F. SAMPSON,
Acting Administrator.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 355

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from North Dakota (Mr. BURDICK) and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 355, to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide for remedies of defects without charge, and for other purposes.

S. 356

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 356, to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

S. 433

At the request of Mr. ROBERT C. BYRD (for Mr. MAGNUSON), the Senator from Tennessee (Mr. BAKER), the Senator from Indiana (Mr. BAYH), the Senator from Kentucky (Mr. COOK), the Senator from California (Mr. CRANSTON), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. McGEE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from Alaska (Mr. STEVENS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 433, a bill to assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes.

S. 514

At the request of Mr. Moss, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 514, to amend the act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data.

S. 582

At the request of Mr. SCOTT of Pennsylvania, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 582, providing social services for the aged.

S. 589

At the request of Mr. AIKEN, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 589, making an urgent supplemental appropriation for the National Industrial Reserve under the Independent Agencies Appropriation Act for the fiscal year ending June 30, 1973.

S. 626, S. 627, S. 628, AND S. 629

At the request of Mr. Moss, the Senator from Alabama (Mr. SPARKMAN) was added as a cosponsor of S. 626, to provide increases in certain annuities payable under chapter 83 of title 5, United States Code; S. 627, to provide that the first $4,000 received as Civil Service retirement annuity from the United States or any agency thereof shall be excluded from gross income; S. 628, to eliminate the annuity reduction made in order to provide a surviving spouse with an annuity during periods when the annuitant is not married; and S. 629, to increase the contribution by the Federal Government to the costs of Federal employees' health benefits insurance.

S. 752

At the request of Mr. SCOTT of Pennsylvania, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 752, to incorporate Pop Warner Little Scholars, Inc.

S. 780

At the request of Mr. SPARKMAN, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 780, to amend the Clayton Act by adding a new section to prohibit sales below cost for the purpose of destroying competition or eliminating a competitor.

S. 783

At the request of Mr. CHILES, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Maine (Mr. MUSKIE), and the Senator from South Dakota (Mr. ABOUREZK) were added as cosponsors of S. 783, to establish the Everglades-Big Cypress National Recreation Area in the State of Florida.

S. 871

Mr. COTTON. Mr. President, I ask that the names of the senior Senator from Georgia (Mr. TALMADGE) and the senior Senator from Minnesota (Mr. MONDALE) be added as cosponsors to S. 871 to correct certain inequities in the crediting of National Guard Technician Service in connection with Civil Service retirement. The addition of the two Senators, from far distant regions of the Nation, brings to a total of 17 Senators who are sponsoring this measure; and is a further indication of the broad support for equity for the National Guard technicians.

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

S. 968

At the request of Mr. SPARKMAN, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 968, to authorize Federal savings and loan associations and national banks to own stock in and invest in loans to certain State housing corporations.

S. 1065

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from New Hampshire (Mr. COTTON) was added as a cosponsor of S. 1065, to amend section 1306(a) of the Federal Aviation Act of 1958, as amended, to authorize the investment of the war risk insurance fund in securities of, or guaranteed by, the United States.

S. 1066

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from New Hampshire (Mr. COTTON) was added as a cosponsor of S. 1066, to amend title 49, United States Code, to provide for criminal penalties for all who knowingly and willfully refuse or fail to file required reports, keep required data or falsify records; provide criminal penalties for unlawful carriage of persons for compensation or hire; to increase the civil penalty limits; and for other purposes.

S. 1083

At the request of Mr. MANSFIELD (for Mr. BAYH), the Senator from North Carolina (Mr. ERVIN) was added as a cosponsor of S. 1083, to amend certain provisions of Federal law relating to explosives.

SENATE JOINT RESOLUTION 64

At the request of Mr. CHURCH, the Senator from Nevada (Mr. BIBLE), the Senator from North Carolina (Mr. ERVIN), and the Senator from Iowa (Mr. HUGHES) were added as cosponsors of Senate Joint Resolution 64, a resolution to protect religious rights in the case of abortion and sterilization procedures.

SENATE RESOLUTION 80—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

(Ordered to be placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following resolution:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Shirley L. Bacon, widow of Raymond E. Bacon, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses, and all other allowances.

HIGHWAY CONSTRUCTION AUTHORIZATIONS—AMENDMENT

AMENDMENT NO. 28

(Ordered to be printed and referred to the Committee on Public Works.)

Mr. HANSEN (for himself and Mr. McGEE) submitted an amendment intended to be proposed by them jointly to the bill (S. 502) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

ORDER FOR STAR PRINT OF AMENDMENT NO. 27 TO S. 158

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent on behalf of the Senator from California (Mr. CRANSTON) that amendment No. 27 to S. 158, introduced on March 8, 1973, be reprinted as a star print to reflect certain changes that resulted from an error in printing.

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

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 21 TO S. 517

At the request of Mr. CURTIS, the name of the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of amendment No. 21 to S. 517, to extend titles I, II, III, IV, V, and VII of the Agricultural Act of 1970 for 5 years.

ANNOUNCEMENT OF HEARINGS CONCERNING HOUSING PROGRAMS

Mr. SPARKMAN. Mr. President, I should like to announce that the Subcommittee on Housing and Urban Affairs will conduct oversight hearings on housing and urban development programs for 2 weeks starting April 3, 1973.

The primary purpose of the hearings is to obtain information from the public and users of the programs to enable the committee to evaluate the programs as to their effectiveness and efficiency in carrying out the purpose for which they were created. Data will be provided on housing needs and to what extent the programs are meeting these needs, the cost and failure rate of housing subsidy programs, and the success and failure of community development programs.

A secondary purpose is to hear testimony on the impoundment of appropriated funds for housing and urban development programs announced by the Secretary of Housing and Urban Development on January 8 and by the Secretary of Agriculture on January 11. The sudden cutoff of Federal housing assistance funds has placed many sponsoring groups, home builders, nonprofit church groups, city governments, and many others in a serious financial loss position. Since the original announcement, a number of HUD field orders have been issued which have modified the original impoundment orders, in some cases easing up on the orders, but in others placing further restrictions on the use of Federal funds. The most serious issue remaining seems to be the position of the administration on the urban development budget cuts for the interim period until new programs can be authorized and funded sometime in fiscal 1975. The subcommittee would like to have the administration explain its position on these cutoffs and what it intends to do about the many inequities that still exist as a result of the arbitrary freeze on housing and urban development funds.

Testimony from a cross-section of public witnesses will be heard to give the subcommittee a basis for developing legislation for which subcommittee hearings will be held this summer.

The subcommittee would welcome statements for inclusion in the record of the hearings.

The hearings will commence each day at 10 a.m. in room 5302 of the Dirksen Senate Office Building.

ANNOUNCEMENT OF HEARINGS CONCERNING SOFTWOOD LUMBER

Mr. SPARKMAN. Mr. President, I should like to announce that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing and Urban Affairs will hold 2 days of hearings on Monday, March 26, and Tuesday, March 27, on the supply and price of softwood lumber, including S. 1033 on lumber exports introduced by Senator Packwood.

The subcommittee would welcome statements for inclusion in the record of the hearings.

The hearings will commence each day at 10 a.m. in room 5302 of the Dirksen Senate Office Building.

NOTICE OF HEARING

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Senator from Louisiana (Mr. JOHNSTON), I ask unanimous consent to have a notice of hearing printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

NOTICE OF HEARINGS ON AUTHORIZATION FOR APPROPRIATIONS

Mr. JOHNSTON. Mr. President, the Subcommittee on Production and Stabilization of the Committee on Banking, Housing and Urban Affairs will commence hearings on legislation to authorize appropriations for the President's National Commission for Productivity at 10:00 a.m. on March 14, 1973, in room 5302, New Senate Office Building.

All persons wishing to testify should contact Mr. Gerald Allen, room 5300, New Senate Office Building; telephone 225-7391.

ADDITIONAL STATEMENTS

RAINBOW BRIDGE CRISIS

Mr. MOSS. Mr. President, the February 27 Federal court ruling, which orders the Secretary of the Interior to remove any waters of Lake Powell which have crossed over the boundaries of Rainbow Bridge National Monument in southern Utah, and to prevent any water from entering in the future, has precipitated a crisis in the Upper Colorado River Basin States of Utah, Wyoming, Colorado, and New Mexico.

Within a few days, unless a stay is granted, 4 million acres of water may be released from Lake Powell, to be lost forever to the upper basin, and the purpose of the Colorado River Storage Act will be violated, because the upper basin will be unable to meet its legal water deliveries to the lower basin States of Arizona, Nevada, and California. Under the provisions of the court decree, there will be a continuing loss of approximately 1 million acre-feet of water per year, and a $3 million loss each year in power revenues due to the Treasury as repayment of the project costs.

The tragic aspect of the entire situation is that neither Rainbow Bridge National Monument, nor the arch of Rainbow Bridge itself, is being—or can ever be—harmed in any way by the small flow of water into the monument. A U.S. Geological Survey study conducted in 1959 concluded that even if Lake Powell were filled to its maximum level of 3,700 feet, the narrow finger of water which would back up under the bridge would be a full 20 to 30 feet below the shelf on which the base of the bridge stands. The abutments of the bridge would not be touched or affected in any way. Moreover, in my opinion, the clear, calm streamer of blue water would enhance the beauty of the area.

I have introduced a bill, S. 1057, to remove from the Colorado River Storage Act the requirement that no lake water be allowed to enter any national park or monument under the provisions of the act. I hope it can be given immediate consideration.

In support of the bill, I ask unanimous consent that the following materials be placed in the CONGRESSIONAL RECORD: First, a copy of S. 1057; second a memorandum I have prepared giving the background of the crisis, and detailing the current situation; third, a memorandum outlining in full the effects of the court order which has been prepared by Ival Goslin, executive director of the Upper Colorado River Commission; and fourth, excerpts from a study conducted by the U.S. Geological Survey for the Bureau of Reclamation and which were the basis of a proposal to build a barrier dam to keep the waters out of the monument, but which Congress expressly forbade. These studies bear out my contention that the maximum water level of Lake Powell would never damage Rainbow Bridge.

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

S. 1057

A bill to amend the Colorado River Storage Project Act in order to remove the prohibition against constructing dams or reservoirs authorized in such Act within national parks or monuments

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third section of the Act entitled "An Act to authorize the Secretary of the Interior to construct, operate, and maintain the Colorado River storage project and participating projects, and for other purposes", approved April 11, 1956 (70 Stat. 105), is amended by striking out the following: "It is the intention of Congress that no dam or reservoir constructed under the authorization of this Act shall be within any national park or monument.".

RAINBOW BRIDGE CRISIS

(Memorandum by Senator FRANK E. MOSS)

In 1956, when the Colorado River Storage Project Act was passed, language was included as follows:

"It is the intention of Congress that no dam or reservoir constructed under the authorization of this Act shall remain within any national park or monument."

This language was inserted primarily to protect Dinosaur National Monument should Echo Park Dam be built, but it also applies to the 160-acre Rainbow Bridge National Monument, and the waters of Lake Powell.

As Lake Powell has filled, some water has backed up into the Rainbow Bridge National Monument, but it has remained far below the base of Rainbow Bridge, and in no way endangers it. The level of the Lake would be more than 20 feet below the base of the Bridge at one side, and 30 feet at the other.

Some time ago, a group of environmentalists filed suit in Utah's Federal Court to require the Department of the Interior to enforce the provisions of the Colorado River Storage Act as they relate to Rainbow Bridge National Monument. On February 27 of this year, Judge Willis Ritter, Senior Federal Judge in Utah, handed down a decree which permanently orders and enjoins the Secretary of the Interior to remove any waters of Lake Powell from the National Monument, and orders the Department to take whatever steps are necessary to prevent any water from entering the Monument in the future.

I understand that the Department of the Interior intends to ask for a stay of execution, and also to appeal Judge Ritter's decision to the Tenth Circuit Court of Appeals. They are not hopeful that Judge Ritter will grant a stay, and the outcome of the appeal is uncertain.

The Ritter decision nullifies the purpose of the Colorado River Storage Act of 1954, and of the Colorado River Basin Project Act of 1968, which further spells out operating procedures.

Within a few days, unless a stay of execution is granted, the Department of the Interior, to prepare for the Spring run-off, will have to initiate the release of at least four million acre feet of water from Lake Powell in excess of that required to be released under the dam's operating criteria. This water would be lost forever to the Upper Basin states insofar as its use for regulated delivery to the Lower Basin in exchange for diversions of water upstream.

If the decree is allowed to stand, the four Upper Colorado Basin states—Utah, Colorado, Wyoming and New Mexico, will lose approximately *one million* acre feet a year of water apportioned to them for consumptive use under the Colorado River Compact, and the Upper Colorado River Basin Compact.

In addition, about *$3 million* will be lost each year in power revenues to the Treasury as repayment of the costs of the Colorado River Storage Act and participating projects. This loss can only be forestalled by taking one of three actions, (1) greatly increasing power rates, (2) completely reorganizing the payment arrangements of the Colorado River Storage Project, and (3) foreclosing further water utilization to the Upper Basin States. All are equally undesirable.

The release of the additional four million acre feet of water would constitute an immediate violation of the operating criteria whose parameters are subscribed in Section 602 of the Colorado River Basin Project Act of 1968. If the decision is allowed to stand, the Secretary will have to violate these criteria on a permanent basis, unless he truncates the storage space in Lake Meade by about one-half. Otherwise he will be unable to act within the terms of the operating criteria which were placed in the law as a compromise between the Lower Basin States and the Upper Basin States to establish equitable operations of the River.

What this really means is that the four Upper Basin States will lose their ability to use water apportioned to them under the "law of the river." Their reduction will have to be imposed because the storage water in Lake Powell between elevations 3606 and 3700 above sea level will be lost. The Upper Basin will be unable to make Compact deliveries to the Lower Basin without curtailing water uses in the four States. It was planned that about half of the water for storage in Lake Powell for release in low water years would be stored in the space above elevation 3606. Obviously if Lake Powell is forced to operate at a reduced capacity, additional storage dams will have to be constructed elsewhere in the system.

Since the 86th Congress, I have had a bill pending before the Senate Interior Committee which would remove from the Colorado River Storage Act of 1966 the requirement that no water be allowed to back up into national parks or monuments *constructed under the authorization of that Act.*

The Rainbow Bridge is the only national monument or park to which the reservation now applies. The reservation would not apply to any other project built under any other authorization, and its removal would not affect any other national park or monument.

I have reintroduced the bill this session (it is S. 1057) and I ask that hearings be held on it *immediately.* It is the only certain way to head off the catastrophe which is now hanging over the entire Colorado River Basin Project. We don't know whether a stay will be granted; we don't know how a higher court will hold if the case is appealed.

In my opinion, the water which backs up into Rainbow Bridge National Monument, and at certain seasons goes far enough to stand under the Bridge itself in the narrow channel of Bridge Creek, enhances rather than detracts from the beauty of the Bridge. Bridge Creek is a rushing stream in the Spring run-off, but it dries off quickly. Springs and seeps are abundant, at the canyon bottom level. The fact that Lake Powell water has spread one of its fingers up toward Rainbow Bridge has made it much more accessible. It is now possible to go within about half a mile of the Monument by boat. As a result some 40,000 people saw this great natural wonder last year, in comparison with a mere handful of people who used to see it when they had to hike in a distance of about 6½ miles from the muddy Colorado River. The water is, and will remain, far below the abutments of the Bridge.

The Bureau of Reclamation attempted to comply with the provisions of the Colorado River Storage Act back in the early 1960's. In the budget requests for both 1961 and 1962 funds were requested to build a barrier dam which would have prevented any water from entering Lake Powell when it filled to the 3,700 foot level (the maximum level of the lake). The dam would have cost about $25 million, and would have been an unsightly scar on the landscape. Furthermore, when the water receded at low water periods, it would have left an ugly mud flat, and a mud-splattered dam.

I went before the Senate Appropriations Committee on both the 1961 and 1962 budget requests and asked that the money be deleted. The late great Senator Carl Hayden, then Chairman of the Senate Appropriations Committee, agreed completely that it was a senseless and unnecessary expenditure, and the money, for the Rainbow Bridge barrier dam was never appropriated.

The dam would have been a great disfigurement. The clear blue finger of water is not. It is there now, and it should stay there. Lake Powell must not be lowered. The water and power supply system of the Upper Colorado River Basin States must not be endangered.

EFFECTS OF JUDGE'S DECREE OF FEBRUARY 27, 1973, IN RAINBOW BRIDGE CASE ON FOUR UPPER DIVISION STATES: UTAH, COLORADO, NEW MEXICO, AND WYOMING

(By Ival Goslin, executive director, Upper Colorado River Commission)

The Judge's decree permanently orders and enjoins the Secretary of the Interior to remove any waters of Lake Powell that are within the boundaries of the 160-acre Rainbow Bridge National Monument and to take whatever steps are necessary to prevent any water from entering the Monument in the future. The major adverse effects of this decree on the four Upper Division States are:

1. Within a few days, unless a stay of execution is requested and granted, in order to comply with this decree, there will have to be initiated the release of at least four million acre feet of water from Lake Powell in excess of that required to be released under the long-term operating criteria. This water will be lost forever to the Upper Basin States insofar as its use for regulated delivery to the Lower Basin in exchange for diversions of water for beneficial use in the Upper Basin.

2. The release of the additional four million acre feet of water in 1973 constitutes an act of immediate violation of the operating criteria whose parameters are subscribed in Section 602 of the Colorado River Basin Project Act of 1968. (Public Law 90–537).

3. If the decree is allowed to stand, the four Upper Basin States will be prevented from the use of water apportioned to them under the "law of the river"—the Colorado River Compact and the Upper Colorado River Basin Compact. The loss will be approximately one million acre feet per year. This reduction in water use will have to be imposed because the storage water in Lake Powell between elevations 3606 and 3700 feet above sea level will be lost. The Upper Basin will be unable to make compact deliveries to the Lower Basin without curtailing water uses in Utah, Colorado, New Mexico and Wyoming in years of low river flows. It was planned that about half the water in storage in Lake Powell for release in low water years would be in the space above elevation 3606. Obviously, with Lake Powell operated at a reduced capacity, additional storage will have to be constructed on the river system in order for the Upper Division to meet its legal water delivery obligation to the Lower Basin and use the water to which it is also legally entitled.

4. Because of the loss of about $3,000,000 per year in power revenues by reason of the lower water level in Lake Powell, the repayment to the Federal Treasury of costs of the Colorado River Storage Project and participating projects cannot be made within the limits set by the Congress in the Colorado River Storage Project Act (70 Stat. 105). The lowet level will preclude further water utilization in the Upper Basin, and the Glen Canyon Dam will be almost exclusively for power generation. Its storage function will be permanently impaired. Furthermore, this conversion cannot be made into an efficient operation without spending millions of dollars for the construction of a new spillway in the dam at the proper elevation.

5. At the restricted elevation, the Colorado River cannot be regulated effectively in the interests of the best conservation of the extremely limited-by-nature water resources. The lip of the spillway in the dam is at elevation 3648 feet. In order to operate the reservoir with a water level below the boundaries of the Rainbow Bridge National Monument, the water will have to be released every year many feet below elevation 3606

in order to provide space for Spring run-off. As pointed out above, the loss this year will be four million acre feet.

6. On a permanent basis, the Secretary of the Interior will have to violate Section 602 of the Colorado River Basin Project Act, unless he also truncates the storage space in Lake Meade by about one-half, because otherwise he will be unable to act within the terms of the operating criteria which were placed in the law as a compromise between the Lower Basin States and the Upper Basin States in order to establish equitable operation of the River.

7. The Colorado River Storage Project Act provided a Congressionally-approved integrated program. At the retricted reservoir content of about one-half capacity, the proper purpose of the Colorado River Storage Project and the intent of the Congress to make possible the conservation and utilization of water in the Upper Basin States, while at the same time making Compact-required deliveries to the Lower Basin, will be violated.

EXCERPTS FROM "A GEOLOGIC EXAMINATION OF RAINBOW BRIDGE NATIONAL MONUMENT"—1959

(By Wallace R. Hansen)

"In response to a request by the National Park Service, the U.S. Geological Survey made a brief geologic examination of Rainbow Bridge National Monument and vicinity in cooperation with the Park Service and the U.S. Bureau of Reclamation. * * *"

"The writer was accompanied to the Rainbow Bridge area by Messrs. J. Neil Murdock, Regional Geologist, Region IV, Bureau of Reclamation, and James Eden, Superintendent, Glen Canyon National Recreation Area, National Park Service. * * *"

GEOLOGY OF RAINBOW BRIDGE

"Rainbow Bridge reportedly is the world's largest natural bridge. As measured many years ago by W. B. Douglas, its height above the floor of Bridge Canyon is 309 feet and its span is 278 feet. At its apex it is 42 feet thick and 33 feet across. The arch itself is carved entirely from Navajo sandstone. Its footings and the inner gorge beneath the arch consist of sandstone units of the Kayenta formation.

"The exposed portion of the Kayenta formation at Rainbow Bridge consists entirely of pale red, fine- to medium-grained, moderately hard to hard well-cemented, flaggy, crossbedded sandstone, which under the bridge, varies little in character from base to top. * * *"

"Springs and seeps are abundant in the Kayenta and Navajo formations in the Rainbow Bridge Area. * * * Abundant springs at or a few feet above canyon-bottom level and perennial drainage through most of the lower lengths of Bridge and Aztec Creeks indicate that the water table is at or near canyon-bottom level and that the rocks below this level are effectively saturated most of the time. Seeps or springs high above the canyon bottoms in recesses or alcoves indicate local saturation and perched water talbes. Such seeps are common in the Rainbow Bridge area, but they are mostly smaller and fewer than those at the canyon bottom. * * *

EFFECTS OF POSSIBLE STANDING WATER UNDER RAINBOW BRIDGE

"There appears to be no valid geologic reason to fear structural damage to Rainbow Bridge as a result of possible repeated incursions and withdrawals of reservoir wates to and from the inner gorge of Bridge Creek beneath the bridge. Rocks within this zone consist entirely of sandstone units of the Kayenta formation, which at the bridge is intermittently saturated by ground water under existing conditions and shows no deleterious effects. Intermittent wetting with reservoir water would only duplicate already existing conditions. The erosive effect of possible wave action in the narrow inner channel would assuredly be negligible and certainly would be less vigorous than the actions of past flash floods, which themseves have not endangered the structural stability of the bridge. The Navajo-Kayenta contact, at an altitude of about 3,720 feet beneath the bridge, is sufficiently high to preclude its being wetted even by flood-stage water levels in the reservoir. Even if the water could rise to the contact—which it could not—there is no reason to believe that Rainbow Bridge would be endangered. In fact, intermittent seepage now occurs in the Navajo sandstone just above the contact in the left abutment. * * *

HIGHLIGHTS OF 1972 NASA ACTIVITIES

Mr. GOLDWATER. Mr. President, as ranking Republican member of the Senate Aeronautical and Space Sciences Committee, I am happy to report that the year 1972 was one of the most productive and successful periods in the history of our space program.

As we all know, the year saw the successful flight of Apollo 17 and its return to earth. Apollo 17, for your information, was a record-breaking NASA endeavor. It recorded the longest manned lunar landing flight—301 hours and 51 minutes. It included the longest time spent in lunar orbit—147 hours and 48 minutes; the longest total extravehicular activity time—23 hours and 12 minutes. In addition, the Apollo 17 recorded the largest moon sample return—an estimated 249 pounds of material.

The Apollo 17 which splashed down December 19, Mr. President was a fitting climax to a truly spectacular year in space exploration.

Because of these important developments and their bearing on future space activities, I ask unanimous consent to have the highlights of NASA's 1972 activities printed in the RECORD.

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

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION HIGHLIGHTS OF 1972 ACTIVITIES

MANNED SPACEFLIGHT

Early in January, President Nixon recommended, and the Congress approved, proceeding with the development of the Space Shuttle—a reusable manned space vehicle which will be used for a wide variety of space missions in earth orbit. The Space Shuttle will be launched as a rocket and landed as an airplane.

The Shuttle will operate from Kennedy Space Center in Florida and Vandenberg Air Force Base in California. North American Rockwell Corporation's Space Division, Downey, California, was selected as the prime contractor.

With the return to earth of Apollo 17 on December 19, the United States completed the last, longest, and most successful of seven manned lunar landings.

Apollo 17 records included:

Longest manned lunar landing flight: 301 hours, 51 minutes.

Largest lunar sample return: An estimated 115 kilograms (249 pounds).

Longest total extravehicular activity time: 23 hours, 12 minutes.

Longest time in lunar orbit; 147 hours, 48 minutes.

Apollo 17 was launched at 12:33 a.m. December 7. It was manned by Eugene A. Cernan, Commander; Ronald E. Evans, Command Module Pilot; and, Harrison H. Schmitt, Lunar Module Pilot.

The fifth manned lunar landing, Apollo 17, took place April 19. After liftoff from Cape Kennedy April 16, John Young, Commander, and Charles Duke, Lunar Module Pilot, spent nearly three days exploring the Descartes highlands region of the moon while Ken Mattingly, Command Module Pilot, orbited the moon operating a complex array of scientific instruments and two lunar mapping cameras. Apollo 16 splashed down in the Pacific Ocean April 27.

During his visit to Russia in May, President Nixon signed an agreement with Chairman Kosygin of the USSR to conduct an earth orbital rendezvous and docking of a U.S. spacecraft with a Russian spacecraft. In July 1975, a U.S. Apollo spacecraft will link up with a Soviet Soyuz spacecraft and while docked together, astronauts and cosmonauts will visit both spacecraft and perform a number of scientific tasks. A major purpose of the Apollo Soyuz Test Project (ASTP) is to develop a rescue capability by demonstrating systems that will permit the docking in orbit of any future manned spacecraft of either nation.

For Skylab, the nation's first space station, 1972 was the year when it all began coming together. The three flight crews and two backup crews were named in January and promptly began an intensive year of training.

The hardware elements—spacecraft components and equipment for conducting scientific, technical and biomedical investigations—were built and tested in many parts of the country and then shipped to Florida for final assembly and testing.

Back-to-back 1973 launches, planned for May 14 and 15, will get Skylab started on an eight-month operational period during which the spacecraft cluster will be visited three times for periods of up to 56 days by three-man crews who will conduct a wide range of experiments in earth resources, solar astronomy, medical and other fields.

The manned orbital research facility will have features that cannot be found on earth: zero-gravity; a broad view of the earth's surface features; a capability for examining the sun and stars from outside the earth's dense and hampering atmosphere.

SPACE SCIENCE

Mariner 9 was put into orbit around Mars late in 1971. The windmill-shaped, solar-powered spacecraft circled the planet 698 times in 349 days and before being shut down on October 27, completely mapped the bleak Martian surface.

As the spacecraft's TV cameras watched the seasons change below, its scientific instruments returned a wealth of data that has revised all previous concepts of Mars.

Among Mariner 9's major observations were:

A geologically active planet with volcanic mountains larger than any on earth;

An equatorial crevasse three to four times deeper than the Grand Canyon;

Indications that free-flowing water may have once existed on Mars;

The evolution of a monumental dust storm that raged to an altitude of 50 to 60 kilometers (30 to 35 miles), cooling the surface and warming the atmosphere—a measurement of great value to scientists who have long been trying to calculate the effect of increasing pollution on earth's global climate.

Mariner 9's findings laid the groundwork for America's next venture to Mars, the Viking expedition in 1975–76 which will search for evidence of life on the planet.

Meantime, a new era in space exploration opened March 2 with the launch of Pioneer 10 toward Jupiter on man's first probe of the giant outer planets.

Pioneer 10 is the first spacecraft to fly be-

yond the orbit of Mars, the first to penetrate the Asteroid Belt, the first intended to look closeup at Jupiter, a thousand times as big as earth, and the first destined to escape the solar system.

As the year ended, Pioneer 10 had passed safely three-fourths of the way through the Asteroid Belt but still had a quarter of a billion miles to fly before training its camera on Jupiter's colorful bands and roving Great Red Spot in December of 1973. From that distance its radio signal will take 45 minutes to reach earth.

The heaviest and most complex U.S. space observatory, named for the Polish astronomer Copernicus, was launched on August 21 and began studying ultraviolet and X-ray sources in the heavens with a clarity never before possible. So precise is the pointing accuracy that Copernicus could hold its telescope, the largest ever placed in space, on an object smaller than a basketball if seen at a distance of 650 kilometers (400 miles).

Two other U.S. scientific satellites were launched during 1972: Explorer 47, designed to study earth-sun interactions from an orbit reaching half way to the moon; and Explorer 48, which surveyed the sky for gamma ray sources. Explorer 48, launched for NASA by an Italian crew from a platform in the Indian Ocean, was the 26th success in a row for the NASA Scout rocket, a new record for the U.S. space program. In addition, NASA launched four scientific satellities for, or in cooperation with, European organizations.

Two dozen scientific spacecraft orbited in earlier years continued to return miles of tape-recorded data on the solar system and the universe beyond. Ten of them, plus far-off Pioneer 10, teamed up to observe great solar storms in August, giving early warning of the disruption and detecting the first evidence of nuclear reactions on the surface of the sum.

APPLICATIONS

On July 23 a major step was taken toward the establishment of a comprehensive information base about the earth's resources and its surface environment with the launch of the first Earth Resources Technology Satellite (ERTS–1).

The 891-kilogram (1,965–pound) satellite was placed into a 920-kilometer (570-mile) orbit by a Delta launch vehicle from the Western Test Range (WTR), California, and began returning excellent pictures of the earth's surface July 25.

The main purpose of this first mission is to demonstrate the usefulness of remote sensing of conditions on the earth's surface and environment on a global scale and on a repetitive basis. It is expected that data from ERTS–1 will contribute importantly to the fields of agriculture, forestry, geology, geography (land use management), hydrology, pollution control, oceanography, meteorology and ecology.

Two weather satellites were launched on Delta rockets from WTR: National Oceanic and Atmospheric Administration–2 (NOAA–2) and NASA's Nimbus–5.

NOAA–2 is an operational meteorological satellite launched by NASA October 15 for the NOAA as part of that Agency's operational weather satellite system. Nimbus, launched December 11, is a research and development satellite carrying three new experiments along with three improved experiments similar to those carried in earlier satellites. One experiment involves, for the first time, taking vertical temperature measurements through the clouds down to the surface of the earth.

Two commercial communications satellites in the INTELSAT IV series were launched January 22 and June 13 for the Communications Satellite Corporation aboard NASA's Atlas Centaur launch vehicle to become part of the global communications satellite network.

In addition a small communications relay satellite, Oscar–6, was carried into orbit aboard the NOAA–2 launch vehicle for the Radio Amateur Satellite Corporation. It is being used by ham radio operators around the world. And the first in a new series of Canadian domestic communications satellites, TELESAT–A of "Anik" (Eskimo for brother), was launched by NASA on a Delta rocket. Both the Intelsats and the Canadian satellite were launched from Kennedy Space Center, Florida.

AERONAUTICAL RESEARCH AND TECHNOLOGY

Major thrusts of NASA's aeronautical research and technology efforts were keyed to jet engine noise abatement and the reduction of airway and airport congestion.

Significant progress has been achieved in programs to develop technology for a quiet jet engine, to develop designs for quieting U.S. commercial jetliners flying the nation's airways today, and to develop quieter aircraft takeoff and landing procedures.

Programs for control of jet engine exhaust emissions have demonstrated techniques for achieving significant reductions in pollutants.

Additional progress was achieved in composite materials research, avionics, aerodynamics including the supercritical and antisymetrical wings), electronic flight control systems, general aviation safety, supersonic and hypersonic research, and in basic research in materials and structures.

TECHNOLOGY UTILIZATION

NASA continued to distribute information about benefits from aerospace technology to both the private and public sectors of the national economy at an ever-increasing rate during 1972.

Noteworthy during the year was accelerated use in such fields as medicine, nondestructive testing, and engineering design. Many other fields and disciplines used NASA services in creating new commercial products, and improving others.

A compact, fully automatic gas analyzer now on the commercial market offers prompt information on respiratory and metabolic functions. It can be used in hospital intensive care units and by anesthesiologists.

Ultra-clean laminar air-flow techniques developed by NASA for assembling spacecraft are helping surgeons prevent infections in hospital operating rooms. The number of these special clean room surgeries has risen from less than 50 a year ago to nearly 200 today.

Devices such as eye-operated switches have been used in a Huntsville, Alabama, hospital to test various applications of NASA-developed technology to aid quadriplegics.

Immobile patients are able to do such things as open and close doors and windows, control room temperatures, change radio and TV stations, adjust the position of their beds, and signal the nurse.

Nondestructive testing techniques developed by NASA are gaining widespread industrial use. A good example is a rapid-scan infrared tire tester being used daily by a major U.S. tire manufacturer.

NASTRAN, a computer program designed by NASA to analyze the behavior of structures under stress, is now a design tool familiar to more than 600 American engineers outside the space agency. More than 70 industrial firms, universities, laboratories and Government agencies are using it to solve their structural engineering problems.

For example, front suspension and steering linkages in a line of American cars and light trucks are now being designed with NASTRAN assistance. NASTRAN analysis can also be applied in the construction of bridges, power plants, skyscrapers, and airplanes.

Increasingly items of fireproof or fire protective clothing and fire-retardant or fire-resistant building materials appeared on the commercial market, spurred by NASA research.

NASA has developed several fire retardant or non-flammable foams, paints, fabrics, and glass fiber laminates. The International Association of Firefighters recently asked NASA to develop protective suits from new materials first developed for the space program.

New, successful lines of high-energy batteries appeared on the commercial market during 1972, providing sure, fast starts for portable power tools and sports equipment, thanks to battery technology originally developed by NASA.

These new products include both lead-acid and nickel-cadmium batteries capable of being recharged 90 to 100 times faster than existing batteries. Most commerical batteries required 14 to 16 hours for full recharge. All of the new batteries can be recharged in 15 to 20 minutes without damage to the cells and some nickel-cadmium units can be recharged in as little as 6 minutes.

A heat pin, developed jointly by NASA and the Atomic Energy Commission, found increasing use during 1972 in products for industrial and household markets. The heat pin, first used in NASA spacecraft and in cooling nuclear reactors can transport heat at about 500 times the rate possible with the best solid conductors. It is being used to speed the cooking of roasts, to recover heat lost in furnace flues and to cool the oil in motorcycles.

Paper-thin flat conductors, an adaptation of space technology, are now being marketed commercially. The adhesive-backed flat cables and switches are applied on walls, ceilings and floors with no need for costly installation inside walls or ceilings. They are readily concealed by paint, wallpaper, tile or carpeting.

INTERNATIONAL AFFAIRS

The principal events affecting the NASA international program in 1972 were the May 24 US/USSR Agreement Concerning Cooperation in the Exploration and Use of Outer Space and the European decision to proceed with system definition studies of a Sortie Laboratory for use with the Space Shuttle.

In other areas of cooperative international activity, 1972 was marked by satellite and probe launchings, foreign participation in approved NASA missions, the issuance of nineteen Announcements of Flight Opportunities (AFO's) inviting foreign participation, continued and expanded activity in the earth resources and lunar sample programs, two new agreements completed in support of Project Skylab, and tracking and data acquisition assistance between NASA and certain foreign space activities.

LAUNCH RECORD

The year 1972 was the first in NASA's history in which all of NASA's launches and missions were successful. The 1972 record of eighteen successful launches includes two Saturn Vs, four Atlas-Centaurs, seven Deltas and five Scouts. Eight each were launched from Cape Kennedy and the Western Test Range and one each from Wallops Station, Virginia, and the San Marco platform off the coast of Kenya, Africa.

NASA's Scout rocket, a 100-foot high, all solid-propellant rocket, currently has 28 straight successful launches, a record for the space program. Overall, Scout has an 89 percent success record out of 55 launches while the workhorse Delta rocket has 91 percent successes out of 93 launches.

More than 80 sounding rockets also were launched by NASA in 1972 on a variety of scientific and meteorological missions.

SUMMARY

In 1972, some programs came to close with their initial goals reached or surpassed, while newer programs were being developed with a confidence based on successful past performance. In 1972, NASA-developed technology

and systems found increasingly wider use in both the private and public sectors of the national and international economy. In summary, 1972 was a year marked by solid accomplishment both in flight programs and in supporting research and technology.

TRIBUTE TO CAST IRON SOIL PIPE INDUSTRY AND TO ALABAMA'S ROLE THEREIN

Mr. ALLEN. Mr. President, I rise at this time to extend congratulations to the Cast Iron Soil Pipe Institute and to its company members who produce over 95 percent of the cast iron soil pipe and fittings manufactured in this country. I further extend my sincere congratulations to the thousands of fine, industrious citizens who are employees of these companies. The industry has just completed a remarkably successful record year and I pay tribute to all those who made that record possible. That record is reflected in statistics published every month and made available by the U.S. Department of Commerce. During 1972, the industry produced and shipped more tons of cast iron soil pipe and fittings than in any previous year in history. The total for 1972 was 1,041,820 tons of pipe and fittings shipped. It was the fourth year out of the last five in which the industry total surpassed the million-ton milestone.

In the field of drainage, waste, and vent plumbing systems, cast iron is the proven, reliable material which has given faithful service over the years. Cast iron has been the perennial sales leader in its field throughout the entire life of modern plumbing. And yet, with all of its stability and past achievements, the industry has been unwilling to rest on its laurels. Instead, it has reached out to the future with an imaginative openness to the demands of industrial change.

The time-proven method of joining cast iron drainage pipe together is the lead and oakum method.

This method and these materials are still the favorite of those who seek quality performance from the drainage, waste, and vent systems in their homes.

The industry has, however, experimented with modern methods of joining pipe together. There is now in the industry repertoire the no-hub system and the compression gasket system. There are, in addition, a number of other innovations including service weight pipe and most recently of all, the singlestak, or self-venting system. These innovative systems also chalked up a remarkable sales record during 1972.

The industry last year sold over 35 million no-hub assemblies. This was an increase of better than 15 percent over the total for 1971. The industry also sold over 29 million compression gaskets.

I am immensely proud that my own State of Alabama has been for many years the foremost State in the Nation in the production of cast iron soil pipe and fittings. The foundries of this industry and the jobs they provide our people are an integral part of the economy of many Alabama communities. Our State can be proud of its record of industry progress, due in no small part to the example of leadership and the quality of industrial statesmanship of so many officers and representatives of the cast iron soil pipe producing companies, and to the loyal and dedicated work of their many employees.

The president of the Cast Iron Soil Pipe Institute for the coming year is Mr. James B. Horan of Tyler Pipe Industries, Tyler, Tex. I congratulate him upon his election and I extend to him and his fellow officers and board members, every best wish for a successful quarterly membership meeting to be held this week at the Sheraton-Dallas Hotel in Dallas, Tex. May the men and women in this great industry enjoy yet greater success and set new records once again during 1973.

SECOND ANNUAL MODEL U.S. SENATE IN DELAND, FLA.

Mr. CHILES. Mr. President, on the weekend of April 12–15 Stetson University will sponsor its Second Annual Model U.S. Senate in Deland, Fla. The 4 days have been planned with the goal of duplicating as closely as possible the activities and atmosphere of the U.S. Senate. Representing 50 colleges and universities, 100 students from across the Southeast will each assume a senatorial characterization and participate in committee hearings, party caucuses, and Senate sessions.

The students will be active in writing legislation as well as voicing their opinion on current issues facing our Congress today. I believe that you will agree with me when I note that this particular form of simulation is an important learning tool for our Nation's future lawmakers. I feel also that this model senate is worthy of our attention for another reason and that is for the possible interchange of ideas between us who attend the workshop and our voting youth.

Those taking time from their busy schedules to attend the senate are the Senator from Oregon, MARK HATFIELD, and three Representatives from Florida, LOU FREY, WILLIAM CHAPPELL, and BILL GUNTER. We commend them for helping to provide a deeper knowledge and understanding of our governmental process to the student senators.

I should like to give recognition to the two political science faculty advisers, Dr. T. Wayne Bailey and Dr. Gary L. Maris, as well as to Dr. John E. Johns, president of Stetson.

However, the responsibility for a successful program rests in the hands of the student committee at Stetson and I should like at this time to commend them for their work: Cynthia Horton, Winter Park, chairman; Sandy Blankenburg, Tulsa, Okla.; Kathy Kimbrough, Lancaster, N.Y.; Linda Mattheison, Jacksonville; Rick Harwood, Lighthouse Point; Rhonda Wilson, St. Petersburg; Barb Cox, Davenport; Maryesther Murrill, Arcadia; Cedric Bryant, High Springs; Pam Waxler, Stuart; Tom Stapleton, Sanford and Henry Teel, Birmingham, Ala.

DEATH OF GEORGE W. SARBACHER, JR.

Mr. SCOTT of Pennsylvania. Mr. President, it was with a sense of shock and profound sorrow that I learned of the death of an old friend and an esteemed former colleague in the House of Representatives. I refer to the late George W. Sarbacher, Jr., who represented the old Fifth Pennsylvania District in the 80th Congress and who passed away on Sunday, March 4 at the Suburban Hospital in Montgomery County, Md., where he and his wonderful family have lived in recent years.

After leaving the Congress he served his State as deputy director of revenue for the Commonwealth of Pennsylvania. Later he returned to the Washington area where he joined the National Scientific Laboratories. He moved up through various positions with that firm, eventually becoming president and chairman of the board. In 1970 at the invitation of former Postmaster General Blount, he joined the Postal Service and at the time of his death was serving as chairman of its management advisory team.

George Sarbacher crowded much adventure and achievement into his comparatively short span of 53 years. Born in Philadelphia, he graduated from Temple University and enlisted in the Marine Corps in 1941. He served with distinction in the 2d Marine Division through the campaigns of Guadalcanal, Bougainville, and Guam, for which service he received several citations and medals.

In 1946 while still on active duty in the Marine Corps he was drafted to run for a seat in the House of Representatives. Because he was an officer on active duty he could not campaign nor participate in any way. Despite this, however, he defeated the incumbent, who had considerable seniority. Only then did he transfer from the regular Marine Corps to the reserves.

When he took his seat at the age of 27 he was the youngest Member of the Congress. He had a winning, dimpled smile that made him look even younger then he was. During his first week of service, one of the very senior chairmen of one of the most prestigious committees in the House looked in his direction, pointed and snapped his fingers as though calling for a page.

In those days the pages in the House did not wear distinctive garb, as they now do. This incident prompted George to have a friendly talk with Speaker Joe Martin. Shortly thereafter a regulation was adopted requiring all pages in the House to wear dark blue suits and black ties. George delighted to relate this story and once observed:

If I'm not remembered for anything else, they can always say that I was responsible for putting the House pages into blue suits.

But he will be remembered for much else. During his congressional service he was dedicated to veterans and fought for improved veterans' rights and services. He made a coast-to-coast detailed inspection of hospitals administered by the Veterans' Administration, which resulted in an exhaustive report, which in turn was responsible for vastly improved practices and facilities in VA hospitals.

George was utterly devoted to his family. I offer my sincere sympathy to

his sweet, charming wife Dolly, to his son George W. III and to his two lovely daughters. He had one grandson and I regret for him that he did not have the opportunity of really knowing his grandfather.

George Sarbacher radiated happiness. He always retained his youthful appearance and friendly smile. Quietly and without ostentation he devoted himself to neighborhood and charitable works, especially the Heart Fund. All who knew him are bound to have felt richer for the experience. I am grateful for having known him and having served with him in the Congress and with his many friends I shall always cherish his memory with deep affection. One more name has been added to the "well done" tributes on the long roll of Marine Corps valor.

A LOOK AT OUR NATIONAL SPACE PROGRAM

Mr. ALLEN. Mr. President, as the result of national dedication, the United States has attained complete technological supremacy over all other nations of the world. For example, our accomplishments in space have showered the earth with benefits in medicine, education, transportation, textiles, and in almost every other facet of our everyday life.

But, since attaining this supremacy, there have been severe attacks on those areas, such as the National Aeronautics and Space Administration, which are the source of our past accomplishments. I have spoken of this previously, calling for a sensible approach to funding and programing technical and scientific projects so that there would be stability and good judgment in the utilization of the thousands of highly competent men and women whose efforts contribute to the development of the new knowledge which benefits all mankind.

My alarm at the decline in long-range planning for scientific programs has recently been heightened by a speech delivered by Dean Courtland Perkins, the highly respected Dean of Engineering at Princeton University. Speaking before a meeting of the American Institute of Aeronautics and Astronautics on January 9, 1973, Dean Perkins made three major points: First it is important to preserve in some fashion the great competence built up within NASA; second it is important to agree on NASA's role for the future; and third we must do something to intrigue our best young minds back to important areas of technology and science.

Mr. President, this is a subject of vital importance to the United States, and I ask unanimous consent that Dean Perkins' remarks be printed in the RECORD so that they may be readily available for reading by all Senators.

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

A LOOK AT OUR NATIONAL SPACE PROGRAM—THE SHUTTLE PROGRAM

(By Courtland Perkins)

Mr. President—honored guests—ladies and gentlemen: It is a great pleasure for me to participate in this important annual meeting of the AIAA and an honor for me to be able to address this important luncheon meeting on certain aspects of our national space program. A program at a very difficult crossroads, particularly with respect to our National Aeronautical and Space Administration (NASA). It is fifteen years since the organization of NASA and the start of the build up of space programs by NASA and by the military. We have witnessed on both sides a succession of successes that are truly astonishing—yet today we are all unsure of what we have accomplished and where this leads us.

This afternoon I want to make these points:

1. It is important to preserve in some fashion the great competence built up within NASA—thru its manned space program

2. It is important to agree on NASA's role for the future and better delineate its operational and technical responsibilities and

3. We must do something to intrigue our best young minds back to important areas of technology and science.

Any discussion of space activities today can hardly help but start from consideration of the Apollo program completed so magnificently last month. I believe all will agree that the total NASA manned program culminating in Apollo 17 was the most spectacular technical achievement that the world has witnessed to date, and certainly achieved Apollo's great objective set out by President Kennedy in 1961 to land a man on the moon and recover him safely before 1970. This was a startling goal and a great target that focused our national attention—occupied many of our best minds—motivated our young scholars—and funded as a by product, many things that we could never have done otherwise. It has been a brilliant success and achieved its major objective of demonstrating our technical prowess to the world and with equal importance, to ourselves. We stand in awe of this great accomplishment and only wonder at what do we do now?

It is very difficult to understand Apollo if one had not lived through the events of the 1950s. At the end of World War II and up into the early 50s this country was convinced that it had no competition in science and technology and its prestige and self respect were monumental. Hadn't we perfected radar developed the A and H bombs, the intercontinental bomber, television and others?

Then in swift succession we received three tremendous jolts that shook the country to its foundation. First the Russians whom we felt would take years to develop nuclear weapons showed that they were close behind us and in fact almost exploded their first hydrogen device before we did.

Shortly thereafter our intelligence sources discovered that the Russians were experimenting with and developing ballistic missiles with ranges and payload making ICBMs a near reality. This information received our instant attention and helped create our crash missile program of Atlas—Titan—MM—and Polaris. By 1960 the lead of the Russians in missilery gave us great concern and we faced with real fear a "Missile Gap." Politically massive retaliation had to be abandoned leading eventually to various forms of mutual deterrence. This rapidly eroded confidence in our superiority in science and technology and in its place came doubt and concern.

This concern was deepened in 1959 when the Russians launched the first earth orbiting Satellite "Sputnik" and high-lighted our own activities as both inadequate and something of a joke. The country now compounded their fear of a missile gap with concern over loss of prestige and real self doubt. When in 1959 the Russians successfully orbited their first manned spacecraft far in advance of our own Mercury program the country demanded extraordinary action. We wanted to close the missile gap but also wanted to accomplish a major space first to prove to the world *and to ourselves* that we were *number one* in science and technology and to restore our prestige in the eyes of the world. We sought for and found a program that would stretch our technical skills and our financial strength to the limit giving us a good chance of accomplishing this mission before the Russians.

As we all know the objective decided upon was project Apollo. Everyone knew that it would take a maximum effort of our technical people as the mission itself was on the fringe of possibilities. It would also require top national priority and a great deal of money. Twenty billion was estimated as its cost over a ten year period. It was also felt that Apollo would require great national resolve to face the probability of some form of disaster in space for a complicated program conducted openly in front of the world.

Apollo was erected not for the purposes of space science-lunar geology or bio engineering but was purely motivated by elements of fear and prestige. The country and the congress were ready to back this undertaking and did so without stint during the decade.

This demonstrates a fact well known to anyone involved in large development programs. We can do anything we choose if the project can be defied, given top national priority, stability over the period of its development, and adequate funding. Apollo was such a program.

I think no one will disagree that Apollo succeeded in its objectives far beyond the fondest expectation of those who helped create it. Its success has been truly astonishing and it can be said with confidence that the scientific and technical prestige of the country has not only been restored but actually enhanced as the world watched and participated in, through equally astonishing communications, the first lunar landing by Apollo 11. Since that time the world marvelled that Apollo 12 could land next to the unmanned spacecraft surveyor, suffered agonies while Apollo 13 was brilliantly recovered after a major failure of its oxygen tanks, envied Allan Shepard his lunar iron shot during Apollo 14, rode with the crew of Apollo 15 on the lunar rover to Hadley's Rill, watched the crew of Apollo 16 launch itself from the moon through the Rover's TV camera and watched the last Apollo 17 perform an almost flawless mission. Apollo was a magnificent success, a great credit to this country and to the remarkable NASA technical team that accomplished it.

Apollo scientific output was very high and important, but it was a by product of the major objectives. We must keep in mind that Congress didn't appropriate twenty four billion for lunar geophysics. The main motivation came from our early fear and concerns of prestige and self doubt. Apollo then succeeded far beyond anyone's dreams of the early 60s and its success has generated several important reactions. Probably the most important of these was that it apparently drove the Russians out of this type of competition. It is apparent that there was a Russian program for a manned lunar landing but this program was overwhelmed by events (Apollo) and some of their own technical difficulties—they soon gave up this game. This in a sense was too bad as competition with the Russians has always been a major factor in our space program.

We cannot have a two man race if one of the competitors does not want to run. There is still some element of competition with the Russians but it is very small and largely lost as a motivating factor. This is one of NASA's problems today. NASA itself was created in the frightening era of the 1950s on these very motivations and they are having difficulty today in justifying their programs to the Congress along new lines.

The dilemma is that Apollo generated a great competence in the NASA—in space technology—in program management—and in facilities. All of these are now available to the country for whatever undertaking

they would like to start. It would be an unacceptable waste to merely throw it all away. The question is can this be used usefully for space programs of interest to the country in last decades of the twentieth century. It is up to the Administration and to the Congress to more clearly state the mission and rationale for the NASA during the next fifteen years.

In 1965 the Speaker wrote a letter to Mr. Webb then the administrator of NASA suggesting that the motivations that were giving Apollo top national priority and heavy stable funding were indeed fragile ones, and that NASA should concern itself more with the use of space for practical earth oriented purposes. There was considerable question at that time as to Russian intention toward a manned lunar program and many realized that a new major program like Apollo could not be supported in an environment where fear and concern over prestige were eliminated.

NASA had been thinking along the same lines and erected summer studies in 1966/67 to focus attention on the very real payoffs on earth from the use of orbiting spacecraft. Our AIAA president, Dr. Puckett, was an important member of this study and they resulted in the indentification of many application potentials.

The most visible were in the various fields of communication, weather monitoring, navigation, mapping, and survey of our natural resources. From that time on NASA has maintained a sophisticated program in space application. NASA has emerged as an innovator of new potentials working with possible users of a new capability and finally providing some operational support. Communications is a good example. NASA did much of the basic work in developing communication satellites and now supports this civilian sector with launch services while pushing out into new areas of communication concepts. There are a multitude of possible space applications which can be developed for the civilian sector but as of today the great launch and payload costs of such systems overwhelms studies of their cost effectiveness.

Space science, another NASA line item, has emerged as a very sophisticated activity with many remarkable successes achfeved across a wide spectrum of science. Among the most rewarding have been those programs dealing with astronomy and planetary science. The role of NASA in space science is to help, with the advice of the scientific community, make scientific experiments possible—act as a project integrator—provide launch and readout services—and stimulate new areas. The difficulty with space science is that it continues to be something of a by product of our desire for a national space program. The scientists of the country are not all convinced that space science is the most important science and if given the option would recommend spending this money differently. Space science and exploration then is an inevitable part of a "national space program" undertaken today for no other rationale that this country should spend some of its resources on pushing out space related frontiers. Again many more of these missions would be possible if the very large cost involved in conducing them could be reduced.

No organization was more rudely shaken by the emergence of practical space operations than the DOD and, in particular, its most explosive service and the USAF. Prior to October 1957 space operations for military purposes were ridiculed and any attempt by the military to develop serious space systems was rapidly thrown out as visionary. The Air Force had a surveillance satellite study in progress at the time but it was only funded as a study with no real intent behind it.

After Sputnik the Air Force typically went overboard for space operations and in 1958 at their summer study identified many potentials for space activity across the total front of military operations. This study identified all of those things that we are doing today but also suggested many more that we aren't doing. Many of the things that we aren't doing are those programs for which space adds nothing to a capability except cost. Others aren't being done because the Russians and ourselves have agreed to permit certain activities and not precipitate some form of space warfare.

Man in space was considered at first to be an important military potential and the Air Force was unhappy when their man in space soonest program (MISS) was turned over to the NASA at the time of its activation. The Air Force then embarked on its Winged Reentry program Dynasoar and then to its space station the Manned Orbiting Laboratory (MOL). Finally all manned military programs were eliminated as no viable military mission was uncovered for man in earth orbit. It was learned finally that the Air Force could not have its major and most expensive R&D line item, a program for which a real mission was not understood. Man in earth orbit has little military payoff as we view it today. There is also severe question as to his use for non-military missions in earth orbit as well. The NASA Sky-lab program should help resolve this particular debate.

After the initial euphoria, the USAF and DOD concentrated on real military payoffs, or cost effective if you like that phrase. These areas are surveillance, warning, strategic and tactical communications and navigation. These missions are real and important with space providing a unique capability. There are several more missions that might better be done through the use of space systems if they didn't cost so much.

In today's constrained budget the Armed Services have to give up a front line operational capability to fund such support systems. The system then must be very good indeed to have the Navy give up a new ship or the Air Force give up a new wing of fighters to pay for it. Military space programs then have achieved a solid base of real payoffs. These will inevitably expand further in the years ahead, particularly if the very high cost of space operations can be reduced.

Apollo and all our unmanned programs both in the NASA and the military have been astonishingly successful and through them we have bought and paid for a position of dominance in space activity and in many technologies. We have established great leads in the following technical areas:

1. Solid State devices-integrated circuits-computers.
2. Inertial guidance.
3. Design for high reliability.
4. Operational use of liquid hydrogen as a fuel.
5. Simulation based training.
6. Fuel cells.
7. Systems management and control.

Technological leadership like this is crucial to this country. Our position in world trade requires that we continue to maintain our eminence in areas of high technology. Our National problem is that our young bright minds are turning away from science and technology and if this continues much further we are in for really difficult times. We must excite these young people and convince them that their own interest and the interest of the country are involved in the discovery of new science and the exploitation of new science into new technology. Industry-government-universities must all concentrate on this very real and difficult problem.

Our National Space Program then will be strongly based on real earth oriented payoffs available through space systems. The heart of this will be from both the military and civilian sectors and we can expect these capabilities to grow steadily in the coming years.

Beyond these we have those programs that the country feels that it must do. Not for prestige or fear rationale but because they are the natural goals of a wealthy and progressive society. We must continue to involve ourselves in programs of space science and continue our remarkable activities in space exploration. Perhaps cooperating with the USSR.

At the heart of all this is the potential expansion of these activities through the reduction of the cost of space operation. Today we are impeded across the full spectrum of activities due to extremely high launch costs and the cost of space payloads. Thus NASA must consider this to be their number one objective in fulfilling their mission of advancing space technology. We feel that we can reduce these costs only by the following possibilities.

A. Antigravity.

B. A breakthrough in propulsion.

C. Recovery and reuse of launch systems and payloads.

Of these the only one that might have a payoff for us today is (C) the recovery and reuse of launch systems and payloads. This has led us inevitably to the NASA shuttle program that does many things for us.

A. takes full advantage of the NASA capabilities developed through their manned space program.

B. Reduces our complicated stable of rocket launchers required for a wide variety of missions.

C. Lowers the cost and increases the flexability of space operations.

D. Signals our young people that we are not about to throw away our carefully developed technical capability.

E. Can provide the focus for many new technical advances during the next decade.

We are orienting our national space program along new lines and developing new motivations. There is a solid base for our national space program which can be expanded further in many practical ways if we can reduce the cost. The shuttle program can do this and I urge our AIAA membership, the Congress and the Administration to continue their support of this important program.

VITAL SPEECHES OF THE DAY

The country should be proud of our remarkable successes in space activity—it is a thing we have done very well—and we can do much more if the total program is given adequate direction and support.

THE ROLE OF AGRICULTURE IN THE ECONOMY

Mr. CURTIS. Mr. President, the importance and role of agriculture in our economy and our way of life are misunderstood by a majority of the American people.

I am convinced of this because I have made a long study of it. More than a year ago, the esteemed Congressman from Texas, Mr. GEORGE MAHON, and I set out to do something to change that.

Congressman MAHON and I called together the leaders of a number of private companies that depend, for the success of their firms, on sales of their products to farmers and ranchers. We asked these companies to help tell the positive story of agriculture to the American people. The National Agricultural Institute took on the job of coordinating the effort. Congressman MAHON and I are very pleased with the way it is going, and we expect some very significant announcements to be made soon.

We are especially pleased that the press of the country is awakening to the great lack of understanding that exists about agriculture. This includes some editors and newspapers in the metropolitan areas which is very encouraging.

In the February 24 issue of Editor and Publisher magazine, Mr. Terrence L. Day wrote an excellent article explaining the problems we face with the metropolitan press. I respectfully request permission that Mr. Day's article, "Agriculture, a Metropolitan Cinderella," be printed in full in the RECORD.

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

AGRICULTURE, A METROPOLITAN CINDERELLA?

(By Terrence L. Day)

There is a void in modern reportage, a gulf which could lead to a major crisis in America.

Never in the world's history have so many been so dependent upon so few, or so ignorant of their situation, as Americans today. More than 95 percent of the nation's people are dependent upon the less than 5 percent who man the nation's farms.

Agriculture is a metropolitan Cinderella who labors hard for urban America, but who works without appreciation because there is a knowledge chasm left unbridged by modern journalism, or inadequately bridged at best. That vital informational link, the farm beat, has been plowed under or sent out to graze on the south 40 on most urban newspapers today.

WRONG NEWS POLICY

A news executive recently explained his paper's abandoned farm beat: "We don't have very many farmers in our circulation area any more."

Unfortunately that philosophy is all too apparent in today's newsrooms. What J. Henri Fabre, the French entomologist and author, said of history is equally apropos of journalism: "History . . . celebrates the battle fields whereon we meet our death, but scorns to speak of plowed fields whereby we thrive; it knows the name of the King's bastards, but cannot tell us the origin of wheat. That is the way of human folly."

Journalism celebrates city streets whereon we riot, but scorns agriculture whereby we prosper; it reports which movie star is living out of wedlock with whom, but does not tell us about our source of food.

Today's newspapers may not have very many farmer subscribers, but their readers all have one thing in common: they eat. And as long as they do, newspapers should take a vital, intelligent interest in agriculture.

WRITE FOR CITY READERS

Editors don't expect an aerospace editor to write for aerospace employes. They don't ask science writers to write for scientists, nor education writers to slant articles to educators. Political writers aren't asked to write for politicians, and transportation writers don't write for truck drivers.

So why should farm writers write for farmers? They shouldn't. They should write about agriculture, for city folk. But all too much of the little farm writing today is of small value or interest to urbanites because it does not put agriculture in terms they can understand.

The reasons for strong farm beats are manifold, but paramount are reader interest and public interest. Readers are interested in farm news that is written for them, and nowhere is the need for farm editors to serve the public interest more apparent than in the hubbub over food prices.

The most prevalent and most inaccurate myth in America today is the "high" food prices legend believed by almost every consumer and promulgated by nearly every newspaper and television station in America.

Why does almost everyone think food is expensive? Because today's news media fails miserably to understand agriculture and to report it accurately. It is a digression, but you won't believe that food is cheap unless we document it, so let's digress.

Agriculture has given America the lowest-cost food bill in the history of mankind—16 percent of disposable income in 1971, compared with 23 percent in 1950, according to U.S. Department of Agriculture statistics.

It's an unpopular story, but our great agricultural progress has reduced food costs by 30 percent during the past 21 years. As a bonus, Americans also get a greater variety of food, a higher standard of eating (including twice as much beef), less kitchen drudgery, and more meals "out-on-the-town."

America's food bill in 1971 was $118 billion—a whopping $51.7 billion less than it would be if Americans still paid 23 percent of their income for food as they did in 1950.

That is $51.7 billion which Americans spent for second cars, trail bikes, boats, stereophonic sound systems, fancy furniture, summer cottages, dishwashers, color television, and a host of other consumer goods. But how much is $51.7 billion? It is $15.1 billion more than the total value of all automobiles manufactured in the United States and of the distribution costs of all foreign-made automobiles sold in the United States in 1969! (Based on U.S. Statistical Abstract figures.)

In other words, the unparalleled efficency of the American farm is one of the basic reasons for the high and still rising American standard of living, a principal difference between our standard of living and that of other countries. (Englishmen spend 29 percent of their income for food. Italians 45 percent, and Indians 80 percent.)

SHOULD GIVE THANKS

Instead of complaining about "high" food prices, we Americans should be on our knees giving thanks for our share of the $51.7 billion a year the nation saves on groceries. It is the very substance of our high standard of living.

But, you say, look at what's happening to food prices. Meat has gone up, eggs have gone up. Yes, and they'll come down, too. But not with the same fanfare with which they went up.

Recently when the price of eggs threatened to reach $1 a dozen the news was headlined for days on end. But when they dropped to 59 cents a dozen, our local newspaper didn't have a single line of copy with that news.

The result is a public misimpression that prices are always going up. That's true of cars, clothes and a lot of other things; but not of food. Food prices fluctuate because farmers cannot control production, and prices rise and fall with supply.

Further, reporters have wholly failed to put food prices into perspective with wages. Big, black headlines shout the news that food prices are expected to increase at an annual rate of about 4.5 percent during the first half of 1973. But what reporters have compared that with anticipated wage increases?

The Nixon Administration says 5.5 percent increases are acceptable, and few authorities feel that wage increases will be held that low in 1973.

It doesn't take an Einstein, or even a high school math teacher, to calculate that if food prices increase 4.5 percent and income rises 5.5 percent, the percentage of our income spent for food will decrease. The increase we see in food prices is inflation—and food is an anchor trying to hold inflation down. Food prices are not contributing to inflation.

With urban America and the press which serves it both ignorant of the realities of agriculture, there is a real threat to the agricultural abundance which is the foundation upon which America has become the world's wealthiest nation—a nation with the highest standard of poverty that the world has ever known.

How is America threatened?

With 95 percent of her population in the cities, and the one-man, one-vote rule, the farm bloc has withered to a tiny voice in a distant pasture.

Unless the farm-city information gap is bridged by the press, it is entirely conceivable that an urban-dominated, urban-oriented Congress could pass legislation which would wreak havoc with agricultural production, or fail to pass legislation essential to a healthy agriculture.

It would be tragic for America to learn the hard way that all of the social reform and anti-poverty programs in the world will be of no benefit if America's unparalleled agricultural miracle is permitted to wither. For modern agriculture is not a permanent miracle which can be ignored once achieved. It is a miracle which must be repeated every year.

But the moment America goes on a binge of anti-farm legislation, capriciously banning vital agricultural chemicals, wildly slashing farm programs, and arbitrarily siding against farmers on national issues; the nation will be sowing the seeds of wretchedness for the cities as well as for the farms.

Food prices will really become high, and with less to spend for other things there will be massive layoffs in city factories which will lose much of their market for consumer goods.

Re-creation of farm beats to report agriculture for city audiences, to give America more balanced reporting on issues touching the farm, would be a small price to pay for prosperity insurance.

EXPANSION OF PRESIDENTIAL POWERS

Mr. ERVIN. Mr. President, the New York Times recently published a series of four articles which explored with great perception and insight the expansion of presidential powers under the Nixon administration.

The Times' reporter, Mr. John Herbers, surveyed several ways in which presidential authority has grown, such as the increasing use of executive impoundment of funds appropriated by the Congress, and the exercise of executive privilege to keep lower-level White House officials from testifying before Congress.

Mr. Herbers examined the historical development of presidential powers, and he conducted interviews with several leading students of the presidency.

Mr. President, these articles have especial significance in light of the struggle that is taking place between the Congress and the Executive over the proper role of the legislative branch in our constitutional system of government.

I ask unanimous consent that the four articles from the New York Times be printed in the RECORD.

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

NIXON'S PRESIDENCY: EXPANSION OF POWER

(By John Herbers)

WASHINGTON, March 3.—Richard M. Nixon, in what he achieved in his first term and what he has undertaken in his second, is attempting an expansion of Presidential

powers that could have more impact on the national Government than that of any President since Franklin D. Roosevelt.

That is the opinion of historians, political scientists and other students of the Presidency who were interviewed during recent weeks while Mr. Nixon was restructuring his Administration for another four years and challenging Congress to what could be a bitter struggle over the constitutional balance of powers.

"In so many ways," said Henry Steele Commager, the historian, "I think Mr. Nixon has gone far beyond any previous Presidents in our history."

Thomas E. Cronin, a young Presidential scholar at the Center for the Study of Democratic Institutions, Santa Barbara, Calif., said of Mr. Nixon: "He has systematically gone about trying to strengthen the Presidency in a great number of ways, frequently by circumventing the Constitution or expanding on past practices that were ambiguous or questionable."

This has been done by strong Presidents in the past, and some have emerged as heroes. In times of emergency, as with Franklin D. Roosevelt during the Depression of the nineteen-thirties, for example, he devalued the dollar and took other actions to restore prosperity. More recently, as society has become more technological and complicated, Presidents have consolidated control of the budget and management of the economy under the White House.

What is involved in the current struggle, however, in the opinion of many, is the settling of national priorities, the future of the system of checks and balances established by the Founding Fathers and the authority that future Presidents will have to make war by their own decision.

Although Mr. Nixon, as a self-proclaimed activist President, is expanding his authority in almost every area, he says that his efforts to gain more control over the use of Federal money would reduce the jurisdiction of the President's office over the long run, by eliminating social programs undertaken and expanded by Presidents Eisenhower, Kennedy and Johnson. Mr. Nixon wants to return this authority to state and local governments.

In his second Inaugural Address Mr. Nixon stressed not only turning authority back to the state and local governments but also more self-reliance of individuals at home and of foreign nations.

IDEOLOGICAL SHIFTS

In the uproar, many Americans have come loose from their ideological moorings as President Nixon has moved to gain more influence over Congress, the Supreme Court, the Federal bureaucracy, his own political party and public opinion.

Conservatives who have traditionally favored a strong Congress and a weakened Presidency are now advocating the reverse. Liberals who have long viewed the Presidency as the best means of achieving a humane foreign policy and helping the needy at home are crying for restraints on the President.

Among intellectuals, there is division and confusion as to what precisely is happening and what should be done. But the feeling that the balance of powers may be out of kilter goes deep.

Inside the White House, the view is that the President is doing no more than exercising powers established by a succession of strong Presidents, most of them Democrats, to carry out what Mr. Nixon views as the will of the majority of the people. It is pointed out that even before he was elected in 1968, Mr. Nixon promised a strong, active Presidency to heal a torn and divided society.

"A COUNTERREVOLUTION"

"Sure, he is leading a counterrevolution," one Presidential aide said, "but it is mostly against some of the things that were done in the national Government in the nineteen-sixties. It doesn't go back to Harry Truman or anything like that. And in the war, he did what was necessary to bring a peace we could live with. He couldn't do it by committee."

Among outside observers, there is a general belief that Mr. Nixon is conducting a more powerful Presidency, both in foreign and domestic affairs, than either Lyndon B. Johnson or John F. Kennedy, both active Presidents who broadened powers inherited from their predecessors.

Much of his new power is accumulative, with trends that began during or after World War II coming to maturity in his Administration. One example is the shift from treaties, which require Senate approval, to executive agreements, which stand on their own.

Although the President has consolidated power in many areas there are two causing the most concern.

DEGREE, NOT KIND

First, in foreign affairs, Mr. Nixon, it is widely believed, has expanded somewhat the powers used by President Johnson, but close observers of both Administrations say the difference is one of degree, not of kind. In ordering the bombing of North Vietnam and military excursions into Cambodia and Laos, he acted under precedents established by Mr. Johnson.

The difference is that he did not advise and consult Congress and others as much as had been done in the past and he did not publicly offer constitutional justification for going around executive action.

The war powers are now viewed as so institutionalized in the executive branch that the American President is freer to take military action on his own than the executives of most other major nations. In the Soviet Union, for example, Premier Aleksei N. Kosygin had to gain approval of the Politboro before ordering the invasion of Czechoslovakia in 1968.

Second, in domestic affairs, Mr. Nixon is using his office to reverse some aspects of a trend that has been under way since the nineteen-thirties—the growth of the national Government as the chief instrument for public policy and services. This trend was given its impetus in the Roosevelt Administration.

METHODS BEING USED

Mr. Nixon is seeking to arrest this trend by public persuasion, by impounding funds that exceed his budget, by deciding which programs will be reduced or eliminated and by threatening to eliminate others if Congress does not turn back more authority to state and local governments. In this regard, he is going farther than any President not involved in total war.

As a result of these two developments, Congress is in a greater fury than has been seen in many years. Charges of Presidential usurption from Congress are nothing new. A century and a half ago, Senator Henry Clay accused President Jackson of attempting to concentrate "all power in the hands of one man," an argument that has emanated periodically from Congress ever since and is now heard daily from Democratic members.

President Nixon, however, has taken this old constitutional struggle into a new era. In the past, strong Presidents who viewed their office as the "tribune of the people" usually sought an expansion of governmental responsibility over a more conservative Congress. Now the roles of Congress and the Presidency are reversed.

The conflict is heightened by the fact that Mr. Nixon moved in the domestic area before the Congressional challenge of his war powers was resolved. Pending in Congress, among other measures, is a bill to require Congressional approval of any act of war 30 days after the President initiates it, legislation that faces almost certain veto should it pass both houses.

CONCERN IN BOTH PARTIES

There is concern in both parties of Congress that the constitutional system is giving way to Presidential Government without checks. In this regard, a range of experts on Government will meet in a symposium here Wednesday and Thursday to examine what happened to the constitutional provision that Congress makes the laws and the President executes them. The symposium is sponsored by an informal group headed by Senator Harold E. Hughes, Democrat of Iowa.

One of the participants is Dr. Commager, whose books on the American past have been read by two generations of students. He lives in rural Massachusetts just off the Amherst College campus in a white-columned, eighteen-forties house. Great stacks of worn books reach the high ceilings. The scene suggests continuity with the nation's origins.

One day recently, as the meadows outside his study window lay under sheets of glazed snow, Dr. Commager was asked his opinion of how Mr. Nixon's use of Presidential power compared with that of previous Presidents.

"He has usurped or aggrandized authority in almost every field," Dr. Commager said. "Even in wartime—the only thing comparable is the Civil War, which was a very special kind of war and therefore the kind of instantaneous action that Lincoln took was domestically required—even in wartime, it seems to me there was no such broad-gauged and wide-fronted assault on the integrity of the constitutional system as we now have."

"UNDERMINING THE COURTS"

President Lincoln, he continued, "did not try to undermine the Court, for example, as Mr. Nixon is undermining the Court. He did not challenge the power of Congress over appropriations as Mr. Nixon is doing. He did not exert executive prerogatives and executive privileges as Mr. Nixon is doing, not only for himself but for subordinates well down the line. In so many ways, I think, Mr. Nixon has gone far beyond any previous Presidents in our history."

This is an extreme but not uncommon view.

A far different opinion was expressed by Theodore J. Lowi, a political scientist formerly of the University of Chicago and now at Cornell and the author of "The End of Liberalism," published in 1969, Mr. Lowi believes that Presidential power took a quantum jump, not under Mr. Nixon, but under President Kennedy, especially in the management of the economy.

He said Congress over the years had placed itself in a state of "permanent receivership" by delegation of authority to the President, that the struggle now was essentially a partisan one between a Republican President and a Democratic Congress and that Mr. Nixon was doing no more than institutionalizing powers used by his predecessors. But he is no less disturbed than Dr. Commager about the erosion of Congressional authority.

1968 RADIO ADDRESS

In 1968, shortly before his election to office, Mr. Nixon delivered a radio address describing his views of the Presidency.

"The days of a passive Presidency belong to a simpler past," he said. "Let me be very clear about this: The next President must take an activist view of his office. He must articulate the nation's values, define its goals and marshal its will. Under a Nixon Administration, the Presidency will be deeply involved in the entire sweep of American public concern. The first responsibility of leadership is to gain mastery over events and to shape the future in the image of our hopes."

This is the kind of Presidency that liberal Democrats had been advocating for generations and are still advocating, but with more checks. Mr. Nixon's assistants and supporters seem surprised that any one would question his use of power. They insist he is acting within a constitutional framework

to carry out a "mandate" from last November's elections, when the President won re-election by a landslide.

An article of faith in the White House is an analysis of last year's elections by Kevin Phillips, a columnist and former Justice Department official. It takes issue with Democratic Congressional leaders who say Congress, too, has a national mandate, one that is quite different from Mr. Nixon's.

"Note that in the last election," he wrote, "Senate candidates endorsing Nixon or effectively refusing to support Senator George S. McGovern won a heavy national majority of the popular vote cast for Senator. If available, statistics for House races would probably be similar. Most Southern Democrats refused to support McGovern or were more or less openly for Nixon. Add their votes to the votes of the G.O.P. Nixon supporters and you have a majority."

Thus, the reasoning goes, not only the Presidential election but also the Congressional elections constitute an endorsement of the Nixon war moves and a "mandate" to eliminate Great Society social programs.

Whatever the accuracy of the Phillips analysis, there is deep faith in the White House that President Nixon is so confident of having public opinion on his side that he is in no mood to proceed with more restraint.

There is a strong belief among scholars and observers that Mr. Nixon could well win the fight with Congress on both the spending and war powers issues. He is reported to be confident of having the votes in Congress to override vetoes. A two-thirds vote in each house is required to override the President.

The Supreme Court, these scholars and observers say, is not likely to offer Congress much hope on constitutionality. Traditionally, the Court has steered clear of fights between the two other branches, refusing to take such cases brought before it.

A LONG TRADITION

Further, there is a long tradition of Presidents making their own powers, with public opinion and their desire to look good in history being the chief restraints. Woodrow Wilson, writing in 1907 before his election to the office, said "The President is at liberty both in law and conscience to be as big a man as he can. His capacity will set the limit."

The struggle is filled with ironies. One is that Mr. Nixon seems to be expanding the powers of his office to bring about a more conservative period in which the national Government, and thus the Presidency, would play a lesser role in the national life.

In this century, the Presidency has grown to have such enormous prestige and receive so much public attention that it is the instrument of Government Americans look to most—for everything from national defense to obtaining social justice.

Mr. Nixon's statement in his second Inaugural Address urging more "self-reliance—"Ask not just what will Government do for me, but what I can do for myself"—was viewed widely as an effort to persuade Americans to look less to the White House, especially for social services and redistribution of wealth. In this sense, if he succeeds, the powers of the Presidency would be lessened.

ANALYSIS BY ROSSITER

Clinton Rossiter, the historian, wrote during the Eisenhower Administration that the 20th-century Presidency had emerged as a defender of poor minorities, an advocate of civil liberties and civil rights and an opponent of "those who would drag us backward into the swamps of primitivism and oppression."

Mr. Cronin, the scholar at the Center for the Study of Democratic Institutions, said Mr. Nixon was the first modern President to take the side of the affluent majority in these matters and to take positions that "contradict the American dream." This opinion of course, is strongly rejected by Nixon supporters, but it nevertheless has wide currency and is at the root of many of the fears about the Nixon Government.

Another fear is the effect of the 22d Amendment, which limits Presidents to two terms and was ratified after the four-term Roosevelt Administration. James MacGregor Burns of Williams College, who has written widely on the Presidency, said, "Nixon is our only acknowledged lame duck President in history except Eisenhower," who governed with restraint.

MAGNIFICENT LION

Mr. Burns suggested that Mr. Nixon might be moving with more caution if he had a chance of winning another term. An advocate of a strong Presidency, Mr. Burns said that the office should have more power in domestic matters, not less, but that the President should be under more political restraints, one of which would be abolition of the 22d Amendment.

Mr. Rossiter, in "The American Presidency," published in 1956, wrote, "The President is not a Gulliver, immobilized by 10,000 tiny cords, not even a Prometheus, chained to a rock of frustration. He is, rather, a kind of magnificent lion who can roam widely and do great deeds so long as he does not try to break loose from his broad reservation."

The reservation has become considerably larger since the relatively gentle Eisenhower years, and the boundaries are now in dispute.

NIXON'S PRESIDENCY: CRISIS FOR CONGRESS

(By John Herbers)

WASHINGTON, March 4.—"You just think we're dumb," Senator Clifford P. Case, Republican of New Jersey, told George P. Shultz, Secretary of the Treasury and Counselor to the President, during a recent hearing on Capitol Hill.

Senator Case was not only right about White House disdain of members of Congress, he was also understating it.

"Congress is lazy, too," said a Presidential aide, pounding his fist on his desk for emphasis during a recent interview. "They work short hours. They don't know how to consult. They say they want to consult with the President, but then they come up here and don't say anything."

"They criticize us for not advising or consulting them in military matters," he continued. "But they cannot keep a secret. If we tell them anything it is out within 30 minutes after they have gone back to the Hill."

That attitude toward Congress runs deep in the White House, and it underscores the seriousness of the constitutional struggle being waged between the executive and legislative branches of the Government as President Nixon, wielding perhaps more power than any President in history, moves into a second term with a landslide victory behind him.

At the heart of the contest is the President's recent move to reorder domestic priorities by impounding funds and liquidating some agencies despite Congressional mandates. But it also involves a general erosion of powers from the Congress to the Presidency, a process that has been under way for many years but has accelerated in the Nixon Administration.

A survey of a wide range of authorities on the Government during the last several weeks shows that, in the opinion of many, the struggle is so weighted to the side of the Presidency that if Mr. Nixon does not relax his demands—his aides insist that he will not—Congress could be left far weaker than it already had become when Mr. Nixon took office in 1969.

"We are now in the midst of a grave and domestic constitutional crisis brought on by the Administration's unilateral efforts to reorder our domestic priorities," said Senator Jacob K. Javits, who actively supported Mr. Nixon's re-election. "This crisis covers every aspect of legislation pending in the Congress or which may be proposed."

SOME ADMINISTRATION CONCERN

On the other hand, there is concern within the Administration that the fight will become so embittered and members of Congress so enraged that they will find ways to upset the President's goals and priorities.

"I agree 100 per cent with what the President is doing," said a high Administration official. "But I fear the spending fight with Congress may go too far."

Nevertheless, beyond the immediate issues and priorities, what is at stake is whether Congress survives as a strong and effective branch of the Government and whether more power continues to accumulate in the Presidency without accompanying restraints and means of accountability to the public, according to many students of government.

Some contend that the erosion of Congressional authority to the Presidency already has gone further under President Nixon than is generally recognized. Following are some of the developments:

President Nixon broadened and institutionalized the war powers of his office by conducting the war in Southeast Asia at his pleasure under precedents and practices used by former President Johnson, but without as close consultation with Congress, which under the Constitution holds the authority to declare war. He also extended the practice of using executive agreements in foreign affairs in place of treaties, which require Senate approval. Thus, "an illegal war was ended by an illegal agreement," according to a Congressional staff member referring to the recent settlement of the war in Vietnam.

While the nerve ends of many members of Congress were still raw from the long and bitter fight on war powers, President Nixon served notice in his recent budget message that in order to control inflation and carry out his campaign pledge not to seek a tax rise, he would not fund some programs enacted by Congress and would curtail others, with Great Society social programs enacted under Democrats in the nineteen-sixties bearing the brunt of the cuts. This went further than any other President had in moving against Congressional power to spend.

Although his aides strongly deny it, it is the opinion of many nonpartisan authorities on the subject that President Nixon has broadened the use of executive privilege to protect himself and members of his Administration from Congressional and public inquiry.

Reorganization of the executive branch by the President has curtailed Congressional access and authority in some areas of the Government. For example, by increasing the budgetary controls by the executive branch over the regulatory agencies, a power that once rested solely with Congress, the Administration forced the Federal Trade Commission, through a cut of funds, to cancel a planned investigation in hospital and medical practices, according to the testimony of the former commission chairman, Miles W. Kirkpatrick.

In a number of little ways, the Nixon Administration has defied Congress. When the Senate Finance Committee wanted to conduct its own study of the welfare situation, the Administration would not let the committee use its computers and would make only that information available for the computers that the Administration wanted it to have.

President Nixon, who terms himself an activist in the Presidency and views the office as the chief representative of the public, said in his Jan. 31 press conference that Congress represented special interests while the President represented all of the people.

"The Interior Committee wants to have more parks and the Agriculture Committee wants cheap R.E.A. [Rural Electrification Administration] loans and the Committee on Education and Labor wants more for education, and each of these wants we all sympathize with," he said. "But there is only one place in this Government where somebody has got to speak not for the special interests which the Congress represents but for the general interest." That place, he said, is the White House.

LITTLE SOUGHT FROM CONGRESS

On the spending issue, President Nixon is in a unique position. He is the first President since the Federal budget became an important instrument in managing the economy—a development of the last two decades—to be caught in a position of having steadily rising Government costs collide head-on with his policy for controlling inflation. That policy is to hold spending to a budget level of $268-billion for the fiscal year beginning July 1, rather than raising taxes.

The fight with Congress is essentially over which branch of the Government will decide which programs will be cut and by how much. Mr. Nixon has moved to do so by executive action while legislation contend that such power belongs to the Congress.

Further according to sources both in and out of the Administration, there is not much Mr. Nixon wants from Congress this year. His program is for contracting many Government services, not expanding them.

Charles L. Schultze, who was budget director under President Johnson and is now with the Brookings Institution, pointed out in an interview that other recent Presidents all wanted something from Congress in legislation, usually quite a lot.

"In the past," said Mr. Schultze, "funds would be impounded for a time, as Mr. Nixon is doing now, but they became a matter of negotiations between the President and Congress and eventually most of them would be released.

"For at least 15 years," he continued, "Presidents have been trying to get rid of the Rural Environmental Assistance Program or have it reduced, but they always gave in to Congress in the end because there was something they wanted from Congress. Now Nixon has simply cut it off and there is no bargaining position."

A TEST OF WILLS

The program, called REAP, which helps farmers reclaim land, has been costing more than $200-million a year. Congress, as a test of wills, is in the process of passing legislation that would force the President to spend the money, but White House sources say the President is confident that his opponents on the Hill can never muster the two-thirds vote in both houses needed to override his veto.

At the same time, the President's men are happily dismantling the Office of Economic Opportunity, the agency established by the Johnson Administration to help eradicate poverty, despite specific prohibitions in the law against doing so. White House lawyers say they are acting under other laws, delegations of power from Congress, that give the President authority to do so.

Nevertheless, Mr. Schultze and other experts agree that what Mr. Nixon is doing is boldly extending power for the Presidency "in degree if not in kind." Mr. Schultze pointed out that the President's actions in impounding funds as Commander in Chief of the armed forces have far more precedent than impounding funds to eliminate entire domestic programs.

Thus President Jefferson's refusal to buy gunboats and President Truman's order to impound $700-million appropriated for the Air Force, examples cited by Mr. Nixon and his assistants, are not precedents at all for what is being done now, according to Mr. Schultze.

On the use of executive privilege, a debate has raged between the White House and Congress on whether Mr. Nixon has expanded that power, which most authorities agree is needed to protect the autonomy of the Presidency but is frequently used to hide waste, corruption or other misdeeds from the legislative branch.

A recent example of its use was the refusal by Air Force Secretary Robert C. Seamans Jr. to disclose the conversations he had with members of the White House in regard to the dismissal of A. Ernest Fitzgerald, who exposed the $2-billion overrun on the C–5A transport plane.

John D. Ehrlichman, assistant to the President for domestic affairs, said in an interview with U.S. News & World Report Feb. 18 that Mr. Nixon had adopted a procedure to minimize the use of executive privilege. He said that Mr. Nixon had invoked the privilege only three times in four years, whereas President Kennedy invoked it six times in three years.

"The President has been very openhanded in providing witnesses and documents to the Congress," he said.

Clark R. Mollenhoff, a former Nixon aide who is now Washington bureau chief for the Des Moines Register, has made a detailed study of the issue over a period of years. He contends that Mr. Nixon has broadened the use of executive privilege in several respects over practices of the Kennedy and Johnson Administrations, especially extending it to officials lower down the line.

"The President now says that all actions by White House officials can be treated as confidential and not subject to the subpoena process of the Congress or the courts," Mr. Mollenhoff wrote.

"The White House game plan has been to refuse initially all requests for information that are potentially embarrassing, and to clothe all members of the White House staff with the 'executive privilege,'" he said. "If the issue becomes too hot to handle, as it did in the International Telephone and Telegraph case, the President will permit the White House officials to appear and answer questions in a manner as restricted as the practical political situation allows."

LAW IS PASSED OVER

President Nixon has extended powers over Congress in ways that have received little attention. After Franklin D. Roosevelt devalued the dollar during the depression, Congress passed a law in 1945 providing that only Congress could set the price of gold, the step involved in devaluation. Despite the law's explicit provisions, however, Mr. Nixon has twice devalued the dollar by executive action, and it drew no protest because of Congressional recognition that the world money markets should not be tipped off in advance, as Congressional action would have done.

This is an example of how power has steadily accumulated in the Presidency. Over the years, Congress and the President have repeatedly waged war over constitutional authority, but most of the fights in the 19th century and well into the 20th involved Presidential revolt against Congressional dominance.

James A. Garfield in 1881, in fighting that dominance by refusing the advice of friends to compromise with a Senator on the appointment of the Federal collector of the Port of New York, said:

NEW POWERS STAY

"If it were a difference between individuals there could be some sense in such advice. But the one represents a whole independent function of the Government. The other is one-seventy-sixth of one-half of another independent branch of the Government with which compound vulgar fractions the President is asked to compromise."

Today it is Congress struggling to find ways to resist Presidential dominance.

In the past, once a President gained new powers they remained for his successors. Clinton Rossiter, the historian, wrote during the Eisenhower Administration that "strong Presidents have been followed by weak ones; in the aftermath of every 'dictator,' Congress has exulted in the 'restoration of the balance wisely ordained by the fathers.' Yet the ebbs have been more apparent than real, and each new strong President has picked up where the last one left off."

Presidential scholars, who have educated millions of Americans on the need for a strong Presidency and are now frightened by the Nixon phenomenon, still by and large advocate a strong Presidency but want to keep a vital Congress as a check on the executive office.

Henry Steel Commager, asked for an answer to the current struggle, said, "One answer would be impeachment if the Congress had any guts, but it doesn't. The simple answer is to really assert the appropriation power."

But the question is whether the country would support the Congress even in that endeavor. The Nixon White House is confident that it would not.

THE CONSTITUTION ON POWERS

[From the New York Times]

WASHINGTON, March 4.—Following are certain provisions of the Constitution regarding the delegation of powers between the Congress and the President:

CONGRESS

(Article I, section 8)

The Congress shall have power:

To lay and collect taxes, duties, imposts and excises, to pay debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To declare war, grant letters of marque and reprisal, and make rules concerning captives on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof.

THE PRESIDENT

(Article II, sections 2 and 3)

The President shall be Commander in Chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective office, and he shall have power to grant reprieves and pardons for offenses against the United States, except in case of impeachment.

He shall have power, by and with the

advice and consent of the Senate, to make treaties provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

NIXON'S PRESIDENCY: CENTRALIZED CONTROL

(By John Herbers)

WASHINGTON, March 5.—Frederic V. Malek is a 36-year-old self-made millionaire with boyish blue eyes, degrees from West Point and Harvard Business School and a reputation for being a super manager and an effective but restrained hatchet man in the jungles of Washington bureaucracy.

As the new deputy director of the Office of Management and Budget, Mr. Malek has set up a network of loyal Nixon men like himself in key positions throughout the department to help President Nixon get control of the permanent government run by 2.5 million civil servants.

M. Malek is the prototype of the managerial and business people whom Mr. Nixon has placed in high positions, and the Malek operation is an example of the President's methods as he has gone further than any modern President in trying to shape the bureaucracy to conform to both the style and purposes of the President.

The result is a highly centralized and homogeneous leadership in the executive branch that accelerates a long trend of concentrating more authority and decision-making under the White House umbrella.

Mr. Nixon, by executive order, has put in force the main features of an Administration-wide reorganization plan that Congress had refused to pass. The Nixon order created a super Cabinet devoid of any former elected officials. He has moved into the White House authority over a variety of affairs, such as lobbying and press relations, that had rested in the departments.

Students of government agree that a wayward and stubborn bureaucracy has frustrated the goals of every President and that the President should exercise control. However, fears have been aroused that because of the manner in which the President proceeded, public access to the decision-making processes has been severely curtailed. This comes at a time when the Presidency has become the most powerful instrument of United States Government in history.

Thomas E. Cronin, a visiting fellow at the center for the Study of Democratic Institutions, in Santa Barbara, Calif., who has written widely on the Presidency, said in a recent interview that the White House "has become a powerful inner sanctum of Government, isolated from traditional, constitutional checks and balances."

Mr. Cronin said it was now common practice for "anonymous, unelected and unratified aides" to take important actions in both foreign and domestic area "with no semblance of public scrutiny."

There also are complaints from the President's critics that in his massive reorganization he has weakened his system of advisers and Cabinet members. Traditionally, Cabinet posts and other high offices have been held by politicians with diverse constituencies, scholars, innovators and in some instances political hacks, who represented a broad spectrum of the President's party and a sprinkling from the opposition.

In his first term, Mr. Nixon followed this pattern. But now high posts, with rare exceptions are held by little-known Nixon loyalisits who can be dismissed or transferred at will without creating a ripple in public.

Arthur M. Schlesinger Jr., the historian who was an aide to President Kennedy, wrote recently, "in his first term, President Nixon kept his cabinet at arm's length; and in his second term he has put together what, with one or two exceptions, is the most anonymous Cabinet within memory, a Cabinet of clerks, of compliant and faceless men who stand for nothing, have no independent national position and are guaranteed not to defy Presidential whim."

DRIVE CALLED REFORM

President Nixon has explained his move against the bureaucracy as a reform effort. "Americans are fed up with wasteful, muscle bound government in Washington and are anxious for a change that works," he said Jan. 5. He made the comment in announcing that he was issuing an executive order to place into effect his reorganization proposal that Congress had long ignored.

Even Mr. Nixon's enemies agree that a President must control the bureaucracy to some degree if he is to carry out goals promised in his campaign for election. Every President has acknowledged the frustration of doing so.

President Kennedy once became so discouraged that he told an aide not to abandon a minor project of remodeling Lafayette Park across from the White House, quipping, "Hell, this may be the only thing I'll ever get done."

No one is sure, not even Mr. Malek, how Mr. Nixon's extensive changes will work out. But the desire of Presidents to control the bureaucracy is so great that if Mr. Nixon succeeds, in the opinion of some Government experts, he may well set a precedent that will shape the future of the Presidency.

Nevertheless, the erosion of decision-making from the departments, which are relatively open, to the White House, which is inaccessible to many groups, has been increasing for some time, during the Kennedy and Johnson administrations, but more rapidly under Mr. Nixon.

SENATOR'S SOURCE SHIFTS

Senator Ernest F. Hollings, Democrat of South Carolina, said in a 1971 speech, "It used to be that if I had a problem with food stamps, I went to see the Secretary of Agriculture, whose department had jurisdiction over the problem. Not any more, I must go to the White House. If I want the latest on textiles I won't get it from the Secretary of Commerce. I am forced to go to the White House."

This is due partly to the fact that in a more complicated society there are conflicts between the departments that have to be settled at the top. There has to be a referee between them.

But much of the reason is that the White House frequently does not trust the departments, which have constituencies of their own.

Examples of departmental loss of power abound. The Treasury Department, with a competent research staff, has for years been at the forefront of administration innovations on tax legislation. Now, sources say the department is rarely consulted as high-level policy discussions go on in the White House.

The Office of Management and Budget, a White House agency, recently suspended housing subsidy programs without consulting the Department of Housing and Urban Development. The State Department has been even further removed from foreign policy decisions than under the Johnson and Kennedy Administrations.

As a result, the White House staff, in Mr. Nixon's words, has "grown like Topsy." At least 4,000 people were employed on the President's personal staff and in the executive offices at the first of the year, and others there had been borrowed from other agencies.

BIG REDUCTION PLANNED

President Nixon has said that this figure will soon be reduced to 2,000, but most of the reductions are coming from the Office of Economic Opportunity, which was put directly under the President in 1964 to receive special attention but is now being dismantled.

"Agencies that really amount to entire ministries operate out of there under names the public rarely hears, such as the Office of Telecommunications Policy, [headed by Clay T. Whitehead] which oversees the entire communications industry," an Administration official said.

The White House assistants have a strong influence not only over the executive departments but also over the supposedly independent regulatory agencies in several ways. One example is that the Office of Management and Budget can stop investigations by the agencies simply by reducing their funds.

Miles W. Kirkpatrick, former chairman of the Federal Trade Commission, said that several of his investigations had been eliminated in this way, Senator Lee Metcalf, Democrat of Montana, has introduced legislation to restore budget control to Congress.

In 1968, shortly before Mr. Nixon's election to office, he said, "I want a Government drawn from the broadest possible base—an administration made up of Republicans, Democrats and independents, and drawn from politics, from career government service, from universities, from business, from the professions—one including not only executives and administrators, but scholars and thinkers."

In his first term he complied with that philosophy, appointing a range of executives that included former Michigan Gov. George Romney, a liberal, as Housing Secretary, and former Texas Gov. John D. Connally, a conservative Democrat, as Treasury Secretary.

But some of his appointments caused him problems and frustrated his purposes. Administration sources frequently cite the example of Robert Ball, the Social Security administrator who was dismissed at the end of the first term.

"The President would make a policy and enunciate it," said a close Nixon aide. "But then Ball would go up to Congress, the doors to the committee room would close and he would say what he really thought. He was very persuasive. We couldn't have that."

And there were more personal difficulties. Former Alaska Gov. Walter J. Hickel, Mr. Nixon's Secretary of Interior, who was dismissed after several disagreements with the President, wrote a book about his experiences. In his last meeting with Mr. Nixon, Mr. Hickel wrote:

"He repeatedly referred to me as an 'adversary.' Initially I considered that a compliment, because to me an adversary within an organization is a valuable asset. It was only after the President had used the term many times and with a disapproving inflection that I realized he considered an adversary an enemy. I could not understand why he would consider me an enemy."

NO MORE OPPOSITION

For his second term, Mr. Nixon has cleaned house of adversaries and policy thwarters. His new high-level appointments come mostly from the business world or from lower Administration posts.

The most controversial is that of Roy Ash, former president of Litton Industries, who is now director of the Office of Management and Budget. Because of the enormous policy decisions in that office and the fact that Litton is a Government contractor with cost overruns, Congress is demanding through legislation likely to be enacted that the Office be subject of Senate confirmation.

But this is considered largely a symbolic protest. Even if Congress should prevail by overriding the President's expected veto on the issue, the President's power is so great in the selection of assistants that he could simply give Mr. Ash another title and let him perform the same duties, according to authoritative sources outside the Administration.

Foreign policy has increasingly centered on Henry A. Kissinger, who has the title of Presidential assistant for national security affairs but is frequently called the de facto Secretary of State.

"Henry is it in the foreign policy, outside the President himself, of course," said an Administration official. "When Henry is off on peace negotiations or somewhere and something happens, say in Africa, the State Department just flounders around and waits until he gets in touch. Sometimes things are just put aside. Henry even handles all his own press relations and tells his assistants not to say anything.

It is the most centralized kind of operation you could devise."

PROMOTIONS FROM STAFF

Mr. Malek's operation cuts across virtually the entire executive branch. The pattern has been for the President to pick a trusted White House staff member and appoint him to a higher position in a department or agency—John C. Whitaker as Under Secretary of Interior, for example.

There were conflicting reports on how the operation will work. Some sources said that Mr. Malek, with four or five assistants in the Office of Management and Budget, would work directly with White House loyalists out in the departments to achieve goals and timetables to see that the President's policies were carried out.

Others, however, said it would mostly involve Mr. Malek and his assistants working with assistant secretaries for management, with full participation of the Secretaries. Nevertheless, the entire operation points to great White House participation in departmental operations, according to several sources, and this is enhanced by the fact that Mr. Malek was formerly the President's talent scout who recruited into government many of the officials involved.

In the past, department heads have frequently generated policies of their own not completely in accord with those of the President.

"This is a thing of the past now," said a high Nixon aide.

There are other operations of a similar nature, such as the following:

The lobbying operation for the executive branch is being reorganized at Mr. Nixon's direction under William E. Timmons, the President's assistant for government relations, to make all of its members more responsive to the White House. Departmental lobbyists in the past have been picked by individual secretaries and thus have been loyal to the secretary first and the White House second, particularly if the Secretary does not see eye to eye with the president. Hereafter all Government lobbyists will be picked by the White House team and come directly under its jurisdiction.

The public information offices in the executive branch are being more centralized under a White House operation now undergoing revision. It is expected that the operation will be headed by Ronald L. Ziegler, the President's press secretary, with Ken W. Clawson, deputy director of communications for the White House, holding a top position.

Already the practice is for the White House to approve the public information officers in the agencies, insisting in most cases that they be strong on Nixon salesmanship.

The growing White House responsibility has required another layer of overseers to oversee the overseers. Mr. Nixon has brought four officials into the White House as counselors, while permitting them to retain Secretary functions. They are George P. Shultz, Treasury Secretary, for economics, James T. Lynn, Housing and Urban Development Secretary, for community development; Casper W. Weinberger, Health, Education and Welfare Secretary, for human resources, and Earl L. Butz, Agriculture Secretary, for natural resources.

Among students of government there is less concern about the concentration of power than about the processes of government becoming obscured in the executive offices of the Presidency.

"We know almost everything about Presidents," James McGregor Burns wrote recently. "But we know all too little about the vast gray executive establishment that expands, proliferates, and partly devours the decision-making apparatus of the rest of the Government, behind the pleasantly deceptive 'low profile' of the White House."

NIXON'S PRESIDENCY: A NATION IS CHANGED

(By John Herbers)

WASHINGTON, March 6.—For four years, Nixon Administration officials traveled the nation telling audiences that the Federal Government, over which they were presiding, was flawed in many ways as a means of delivering services to the public.

The standard argument, used by everyone from the President to deputy assistant secretaries, was that the Federal Government was "muscle-bound" under a "patronizing bureaucratic elite" and that local governments should be trusted and strengthened.

Now they are fulfilling their prophecy. Money and authority are flowing back to the states and the President and his men are dismantling programs built by four decades of Democratic government. Although it has just begun, this reversal of a long-term trend is one of the many ways in which the Nixon Presidency has had enormous impact on the national life.

In what he accomplished in his first term and what he has undertaken in his second, Mr. Nixon is strongly influencing what kind of schools people attend, what kind of cities and communities they live in, what kind of news they watch on television and read in the press, what taxes they pay and to whom, what system of justice they live under, what their employment and income opportunities will be, and a host of other matters affecting their daily lives.

Like all Presidents, Mr. Nixon is seeking to have an important impact on the nation. But he has undertaken to make fundamental changes in what kind of schools people attend, what kind of cities and communities they live in, what kind of news they watch on television and read in the papers, what taxes they pay and to whom, what system of justice they live under, what their employment and income opportunities will be and a host of other matters affecting their daily lives.

Mr. Nixon is making an extraordinary mark on American society, according to political leaders and students of the Presidency, by making bold use of Presidential powers and expanding in a number of ways the enormous influence that the White House brings to bear on public opinion.

With almost four years remaining in office and with a landslide victory behind him, Mr. Nixon is seeking to consolidate his gains, make new initiatives in shaping the national life and leave a legacy for his successor that would be difficult to reverse.

Some Nixon supporters expect Mr. Nixon to be so successful that the age will be named for him.

THE NIXON ERA

"This is going to be known as the Nixon era," said one of his aides. "I know it is."

The President's own words give an indication of his intent to be a highly active President for the rest of his Administration.

"I believe in the battle," Mr. Nixon told Saul Pett of The Associated Press in a recent interview, "whether it's the battle of a campaign or the battle of this office, which is a continuing battle. It's always there wherever you go. I perhaps, carry it more than others because that's my way."

Mr. Nixon's opponents are saying that the President, in his use of his powers and in his unilateral assault on social programs, has overplayed his hand and will be rebuked, as have other recent Presidents after landslide victories—Franklin D. Roosevelt, in his attempt to enlarge the Supreme Court, and Lyndon B. Johnson, with his escalation of the Vietnam war, for example.

REJECTION FORESEEN

"I do not read America's mood as this President does," said Senator Edmund S. Muskie, Democrat of Maine, who sought the Presidency in 1972, in predicting that Mr. Nixon's leadership will eventually be rejected as too "negative and narrow."

But at the White House there is not much sign of concern. There, with Richard Nixon firmly in control of the nation's most powerful institution of government, which he has expanded in several respects, the skies all look blue.

To take only one aspect of the Nixon Presidency, the endeavor to dismantle assistance programs and turn more authority back to the state and local governments—New Federalism, the President calls it—is having a wide impact on education, science, agriculture, antipoverty efforts, race relations and the cities.

An example of the depth of the impact comes from William J. McGill, president of Columbia University, who said in a recent statement that there was a "major ideological component" in the action that added up to shifting public funds away from private higher educational institutions to public ones that stress vocational education.

"I believe that Columbia and other leading institutions will begin to lose substantial amounts of Federal support," he said. "Students will go into the public sector in large numbers, because all their costs will be paid there."

PLEA TO ALBANY

"Next year, instead of going to Washington looking for support, we will be going to Albany," he said, and that will mean that Federal money sent to the New York state government for education will go to state-supported colleges. "I believe it forecasts very hard days ahead for major institutions."

Some authorities, however, believe that Mr. Nixon's influence on the Supreme Court may ultimately have greater effect on the country than what he does with Federal money.

In making appointments to the Court, Mr. Nixon has taken greater precautions to see that his nominees follow his idelogy than any other recent President, according to some authorities on the Court.

Presidents have frequently been surprised at how the Justices they appointed turned out. The late Felix Frankfurter, for example, was more conservative on the Court than he appeared when Franklin Roosevelt appointed him.

One way to be more certain is to elevate Justices from the lower courts. Of Mr. Nixon's six nominees to the Court—two were rejected by the Senate—four were picked from the Federal appeals courts, where they had demonstrated the kind of "strict constructionist" rulings favored by Mr. Nixon. These included Chief Justice Warren E. Burger.

The two others were Justice William H. Rehnquist, as Assistant Attorney General with proved conservative views, and Justice

Lewis F. Powell, Jr., a lawyer who had written widely in support of Administration policies, such as crime control.

With almost four years remaining in his term, it is considered almost certain that Mr. Nixon will have an ideological majority on the nine-member Court before his term is out.

Beyond appointments, Mr. Nixon has gone further than other modern Presidents in publicly attacking court rulings.

His stance against school busing—he accused the courts of "busing for the sake of busing"—seem to have brought a virtual halt to court-initiated efforts to integrate schools where new transportation is involved.

He has publicly advocated legislation to find ways to get around Supreme Court rulings against Federal aid to parochial schools.

Another institution on which Mr. Nixon is applying more than coverage pressure is the news media. He has, through Vice President Agnew and other White House officials, publicly accused the national media of bias.

His Justice Department stopped publication of the Pentagon papers for 12 days on the ground that they violated national security and has sought to force reporters to disclose confidential information in criminal cases.

His Office of Telecommunications has proposed legislation that could curtail criticism of government by making local stations responsible for news balance on network broadcasts.

The precise effect of this and other actions on the content of news is in dispute. On the one hand, Herbert G. Klein, the President's director of communications, gave the White House point of view in a "Meet the Press" television Jan. 7:

"I think the key thing is that while there has been a lot of rhetoric and there has been a lot of talk about intimidation, I have not met any intimidated reporters and I never want to. Secondly, the fact is that if you look at the actions, the actions of the Administration, the implementation of the Freedom of Information Act has opened more [official documents]. The actions which we are supporting in Congress, including taking a new look at [reporters'] shield laws, are ones which I think are favorable toward the media."

CRITICAL LOOK AT NEWS

One belief current among both critics and supporters of the Administration is that the White House actions have forced the media to take a healthy, critical look at content of news.

There is a strong belief in the media that the actions have made television and radio particularly cautious and timid in some respects. For example, the number of television and radio entries in the competition for the Robert F. Kennedy Awards, which honor reporting critical of how institutions of all kinds treat the poor and minorities, dropped sharply between 1970 and 1971.

"The only thing we could attribute it to," said a network reporter, who was one of the judges, "was Vice President Agnew's broadside attacks on the media in 1970."

The Nixon Presidency is having an impact, too, on non-Federal Governmental institutions.

When Mr. Nixon came to office in 1969, the nation's mayors were not only fearful of what he would do to the cities, but they were also hostile because they envisioned losing categorical grants, those made for specific purposes. And most were Democrats without Mr. Nixon's suburban constituency.

After four years, Mr. Nixon has made peace, even though Federal aid to large cities has dropped, if the effects of inflation are taken into account. With some exceptions, he appeased them with revenue sharing and armies of lobbyists that would descend on every national urban convention preaching the Administration policy of returning power to local officials.

"Although they are still lambasting the Administration for a shortage of funds," said a spokesman for the United States Conference of Mayors-National League of Cities, "you can bet they are all for the way Nixon is doing it, even with a little less money. Nixon has changed the whole context of the argument on national priorities. You don't hear many Mayors any more talking about helping poor minorities."

Under the categorical urban grants enacted by the Democrats, much of the aid was specifically directed to the poor, and to get the money, the Mayors emphasized the need. Under the Nixon formula, the Mayors have wide latitude in use of the funds, and the money is going largely for general purposes such as salaries of policemen and street cleaning.

GAINS WITH LABOR

In other areas, Mr. Nixon has made important gains with organized labor, once the preserve of Democrats, by making concessions and appealing to labor leaders.

He has neutralized the liberal wing of the Republican party by working for the defeat of those Republicans who publicly attacked his policies.

He is diluting the influence of Democratic lobbyist-lawyers in Washington, who have been barons of policy making, by releasing Administration officials to set up law practices as competing Republicans with better access to the executive branch. Charles W. Colson, special counsel to the President, is an example.

The list goes on.

Students of government say that much of what has happened bears on the kind of institution the Presidency has become in recent years.

For several years, some political scientists have been complaining that the Presidency has become so sanctified in the public mind that Americans have a hard time distinguishing what the President does from their sense of patriotism.

For several years, some political scientists have been complaining that the Presidency has become so sanctified in the public mind that Americans equate criticism of the President with desecration of the flag.

George E. Reedy, former press secretary to President Johnson, wrote in "The Twilight of the Presidency" that the office had become the American monarchy, with all the regalia "except ermine robes, a scepter and a crown."

All recent Presidents have capitalized on the sanctity of the office to consolidate their power and put their political programs into effect. This involves conducting the outward signs of the office in the expected manner so that Americans support the style, not the substance.

In the process, political scientists say, the public does not put the President's words and actions to the same critical test that it maintains for other Government officials.

Thomas E. Cronin, a former White House fellow under President Johnson, who, like Mr. Reedy, found many aspects of that Administration abysmal, has written for a forthcoming book a "Script for a Cosmetic Presidency." All recent Presidents have followed it to some extent. Some of the elements are:

"Travel widely, be a statesman and run for the Nobel Peace Prize; claim to be a consensus leader when the polls are favorable and a 'Profile in Courage' leader when you drop in the polls; proclaim the open Presidency but practice White House government, decision-making centralization and Presidency by secrecy; hold numerous news conferences during your honeymoon, but afterwards appeal direct to the people by direct address; protect and strengthen the powers of the Presidency for the rewards of history; if all else fails, wage war on the press."

Most White House observers agree that Mr. Nixon has followed the script quite well.

"The most sensible resolution," Mr. Cronin concluded, "is to depersonalize and demythologize the Presidency, to understand how it works, to appreciate what it can and cannot do, and to hold Presidents critically to account."

ALL THAT IS RIGHT WITH TODAY'S YOUTH

Mr. CHILES. Mr. President, we hear a great deal today about what is wrong with the youth of America. Yet, I would like to share with you a situation that occurred in the small Florida community of Mayo that points up all that is right with today's youth.

On February 9, 1973, Buddy Dale Lyons was practicing wrestling holds in the Lafayette High School gymnasium in Mayo. Buddy Dale had a freak, tragic accident, suffering a broken neck and a fractured vertebra. He is now totally paralyzed from the neck down.

His friends and classmates rallied to this young man's support. Each year the senior class at Lafayette sponsors fundraising activities all throughout the year to enable them to come to Washington to see their Government in action. We were expecting them on March 13.

This year, the seniors will not visit their Nation's Capitol. Instead, they have decided to cancel their trip and donate the funds they worked so hard to collect to Buddy Dale and his parents to help cover his tremendous medical expenses.

These fine young people washed cars and sponsored bake sales; they encouraged other citizens and community groups to help and they opened a Buddy Dale Lyons fund at the Lafayette County State Bank.

The road to recovery for Buddy Dale will be a long, difficult one. But the love, concern and compassion of his classmates and neighbors have helped give him the courage and determination to begin.

ADDRESS BY VICE PRESIDENT AT DINNER OF VFW

Mr. GOLDWATER. Mr. President, since the fighting ended in Vietnam, a public debate seems to have arisen over whether our Government should extend unconditional amnesty to draft dodgers and deserters. Many of the arguments in favor of forgiving those men who refused to serve while others were fighting and dying, raise the Civil War.

Recently, Mr. President, the Honorable SPIRO T. AGNEW, Vice President of the United States, addressed himself to the question of amnesty and the Lincoln question in an address to the congressional dinner of the Veterans of Foreign Wars. Among other things, the Vice President pointed out:

Now, it is true that Abraham Lincoln issued several decrees of amnesty but none was related to draft laws and all had strings attached. Amnesties regarding union army deserters required them to return to their units and serve out their enlistments with

forfeiture of pay and allowances, and in some instances, with additional time tacked on to their original tours of duty. Can those of you who have served in the armed forces envisage a more difficult punishment for a deserter than to serve out the remainder of his time in his old unit just back from combat? And without pay and allowances.

The Vice President emphasized that the Vietnam draft dodgers and deserters have not admitted that they were wrong but, on the contrary, claim that the United States is wrong.

The Vice President added:

If we simply accepted all of these people back and said, you're forgiven, you were right, it was an immoral war, what would happen if trouble broke out ten or twenty years from now? We would have established a precedent that would encourage those who chose to evade their responsibilities to do so; after all, they might reason, they'll be automatically forgiven once the trouble ceases. Ladies and gentlemen, we cannot afford to—and we do not intend to—establish that precedent.

In the same speech, Mr. AGNEW, reviewed his recent trip to eight Asian nations and said that the peace agreement signed in Paris has served to solidify respect and integrity for the United States throughout the Far East.

Mr. President, I ask unanimous consent that Mr. AGNEW's speech for March 6, 1973 be printed at this point in the RECORD.

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

ADDRESS BY THE VICE PRESIDENT OF THE UNITED STATES

It gives me special pleasure to address you at a time when we stand poised, for the first time in decades, to enter a generation of peace.

It is a period, ladies and gentlemen, that will be viewed as one of the most significant in the history of our Nation. For I know that we will stand firmly together to build this generation of peace, just as we stood firmly together behind the President who made peace possible.

America concluded the war in Vietnam honorably because the great majority of our citizens stood united behind the judgment of three Presidents that Vietnam was an honorable and moral cause.

And there is another issue on which I know we also stand united. That issue is immediate and unqualified amnesty for draft dodgers and deserters. We oppose it.

It is an issue which is being blown out of proportion, but that's to be expected. Now that the anti-war movement has collapsed, all those idle protestors have to have something to shout about.

And, of course, just as their views on the war were magnified out of all reasonable proportion by their sympathizers in the media, so now are their views on amnesty being given unjustifiably solicitous attention. Scarcely a day passes when we don't find on the editorial pages of some of our prestigious national newspapers essays calling for amnesty.

These pleas take many forms. The emotional approach is the most honest, but not the most popular. The most popular approach—the argument from historical analogy—is specious. Such pleas generally seek to inform us, for instance, that Abraham Lincoln set the precedent for a general amnesty just after the Civil War.

Now it's true that Abraham Lincoln issued several decrees of amnesty but none was related to draft laws and all had strings attached. Amnesties regarding Union Army deserters required them to return to their units and serve out their enlistments with forfeiture of pay and allowances and, in some instances, with additional time tacked on to their original tours of duty. Can those of you who have served in the armed forces envisage a more difficult punishment for a deserter than to serve out the remainder of his time in his old unit just back from combat? And without pay and allowances!

In "Abraham Lincoln, The War Years," Carl Sandburg tells of a deserter who had written from Canada to President Lincoln to say he had repented and that he would present himself at the White House grounds ready for military service again. Identified by the clothes he said he would be wearing, he was arrested on the President's order. The President then ordered him returned to his regiment, with the stipulation that, when his term of enlistment expired, he should serve a term in prison equal to the number of days that he was absent by desertion.

President Lincoln also offered amnesty to some soldiers of the Confederacy, provided that they renounced the Confederacy and swore allegiance to the Constitution of the United States. That particular amnesty had a purely military purpose—it was designed to encourage desertions from the Southern armed forces.

President Lincoln's views on how to handle those who would not serve their country in its hour of need were shared by all other wartime Presidents. Little wonder then that when we hear that those who deserted or who dodged the draft and went to Sweden or Canada are the country's finest young men—and should be received as heroes refusing to fight an immoral war—it makes some of us a little impatient. Such illogic is particularly irritating after we have watched with awe, and with the very deepest respect, the repatriation of our prisoners of war. Gentlemen, they are the men who are the heroes of this war, not those who, for whatever reasons, took the easy way out.

I think the American people realize the specious nature of the argument that deserters and draft dodgers are to be congratulated—the tremendous welcome and outpouring of goodwill for our returning POW's proves that most of us still have balanced judgment. The reception given the POW's shows that America accepts them as heroes in their own right. Moreover, their reception is symbolic of the gratitude we feel for all those who have served in Vietnam—not only those who were captured and are now returning, but also those who died, and those who came back wounded or crippled, and those who fought and fortunately returned whole.

Now, as for the deserters and draft dodgers. . . . People make mistakes. We all understand that. When they recognize their mistakes and accept the punishment as the natural consequence of those mistakes, certainly some may be entitled to another chance. But these draft dodgers and deserters have not admitted that they are wrong; on the contrary, they say that the country is wrong and they are right. Until they recognize that it is they who have erred and not the country, we must be unyielding in how we treat them.

If we simply accepted all of these people back and said, you're forgiven, you were right, it was an immoral war, what would happen if trouble broke out 10 or 20 years from now? We would have established a precedent that would encourage those who chose to evade their responsibilities to do so; after all, they might reason, they'll be automatically forgiven once the trouble ceases. Ladies and gentlemen, we cannot afford to—and we do not intend to—establish that precedent.

On January 27th in Paris, Secretary Rogers on President Nixon's behalf signed a peace agreement which honors the traditions of the United States in a most appropriate way. Through that carefully negotiated agreement, the prospects for peace in Indochina have brightened dramatically. But the President also upheld the principle that America will never compromise her commitments to human freedom and the right of nations to be secure from aggression by their neighbors.

That day was a day for thanksgiving, a day for quiet reflection, and certainly a day for pride. The seemingly interminable fighting was coming to an end. America's conditions for an honorable settlement had been fulfilled. The enemy was not presented with a victory over our gallant ally, and the legitimate, duly elected government of South Vietnam remained in control. The rights of the people of South Vietnam were preserved. Moreover, our prisoners of war, under the terms of the agreement, are being returned and all our missing in action are to be accounted for. Our forces are coming home from South Vietnam after succeeding in the mission they were sent there to perform.

The peace sought by President Nixon is based on the realities of the world as it exists—it is a peace resting on the solid foundation of American strength and resolve, yet fashioned through negotiation rather than confrontation.

None of this would have come to pass unless the President had made it possible for us to sit down with the leaders of the People's Republic of China to talk over our differences, rather than fighting about them. Nor would it have come about had not the President convinced the Soviet Union that solutions to global issues—mutual force reductions, limitations of strategic arms, cooperation in trade, science, health and space—were more important to them than their support for so-called wars of national liberation.

The long and bitter debate in America over the Vietnam war has come to focus on one basic issue: whether the United States would honor its commitment to defend a brave ally against calculated aggression, or whether in the face of great difficulty and harsh criticism, it would simply cut its losses and abandon its commitments. The President chose the former course, knowing that the cold, searching eye of history and the conscience of the American people would never condone his taking the easy way.

In his search for a settlement, the President faced difficult choices: whether to move toward a simple bilateral agreement with Hanoi, which would have accomplished American withdrawal and permitted the war to drag on endlessly in the South, or whether to try for what his critics said was impossible—a comprehensive agreement to stop the fighting throughout Vietnam, and later throughout the rest of Indochina, and to establish the machinery for a lasting peace. And again, the President chose the tough, high road.

Has it been worth it? Based on my recent trip to eight Asian nations, I would voice a resounding "yes." We succeeded in achieving our objectives in South Vietnam and Indochina, and we have done our part to preserve the environment for growth and cooperation which has been developing so impressively over the past several years throughout Southeast Asia.

Consider Indonesia:

This country was gravely threatened by outside subversion in the early 1960's. Today it is a stable, growing non-Communist nation which is helping to supervise the cease-fire in Vietnam. It is trying to cooperate within the framework of ASEAN—the group composed of the nations on the Malay peninsula, as well as Indonesia and the Philippines—cooperate in such ways that these nations will

be able, through mutual efforts, to achieve a true neutrality and independence based on their ability to defend themselves.

Consider Singapore:

It has imaginative leadership, impressive industrial growth and burgeoning trade throughout the world.

Consider Malayasia:

Its economic and social programs are models of progressive planning, admired throughout the world. It is trying, through land reform and other devices, to redistribute the wealth in a fair way to its people. This country has some racial problems to overcome, but it is trying to work its way through this equitably and doing very well at it.

Or consider Thailand:

It is blessed with strength and an inherent stability; a benign monarchy, a King who goes every week into the hills to visit with the tribes to show his presence; and a tough Prime Minister, a military man who insists on a law and order environment. Thailand remains a very formidable obstacle to the spread of insurgency and Communism in that part of the world.

During the course of my trip, I had long sessions with the top young technocrats in each of the countries I visited. These are able young people, many trained in the United States and many sharing our own economic concepts and drive for disciplined development. They told me of their hopes, their plans and their needs. They are in touch with each other throughout the area devising ways of cooperating to achieve their common goals.

But, more important, the leaders who direct these impressive young experts, whether in Indonesia, or Singapore, or Malaysia, or Thailand or Vietnam, uniformly assured me that had it not been for the stability fostered by the steadfast United States presence in Southeast Asia, they would never have had the time to advance their work. The leaders I talked with are guardedly hopeful that the Paris Agreements will lead to an era of broader peace, but they also believe that the United States has achieved a settlement with honor that assures our continued presence and support. And they need that so much. Not one country that I visited on this or on any of my five trips to Asia in the four years I've been Vice President has ever indicated any dissatisfaction with the role of the United States. All have seen us as a force supporting their desire for self-determination and freedom in the region.

These men I spoke with are responsible for directing the aspirations and objectives of nearly ¼ billion people spread over a large and strategic area of the globe. Their cultures are old, but most of these nations are young politically, and they are moving with increasing confidence to solve their problems.

Indonesia is a model in this respect. A group called the IGGI—the Intergovernmental Group on Indonesia—coordinates economic assistance to Indonesia. Working with the expert advice of the World Bank, the donor countries—primarily Japan and the United States, each of which contributes about one third of Indonesia's over $600 million in economic assistance—have been able to help Indonesia make incredible progress.

Indonesia is very rich in natural resources, but needs know-how, discipline and assistance to bring itself to a position where it can maintain progress and meet the expectations of its people. Such progress will ensure that insurrection and Communist subversion cannot again flourish there. We are performing a very important function in Asia and I hope the Congress will understand, when it considers the aid bills, that what we are doing when we give these monies for military assistance or for economic aid is making an investment in the stability of what has truly become a small world. Many of our people, unfortunately, feel that we should pursue a course of neo-isolationism and worry only about things at home. But believe me, ladies and gentlemen, the world shrinks every day; modern transportation and communications have made it impossible for us to divorce ourselves from the needs of the rest of the globe without subjecting future generations to grave risks.

And these people have leadership. They have quality leadership and they have energy. Of course, we can provide only a stabilizing presence, some aid and investment and capital, technical expertise, trade opportunities and above all, patience and interest. But if my recent trip has taught me anything, it is that the leaders of these nations regard these American contributions as essential ingredients in their forward planning. We must continue to provide these essentials now that the fighting is ending and we can finally turn wholeheartedly toward the solution of mutual economic and social problems.

In sum, my travels have taught me that there is a broader significance to the settlement in Paris than peace with honor in Vietnam and the maintenance of the South Vietnamese people's right to choose their own destiny. What we have done is solidify respect for the integrity of the United States. That means we can preserve a continuing role in a large area of the world which needs and wants our help, our capital and our know-how.

All of this is a tribute to a President who had the courage in the face of the harshest type of criticism to stay on a course that he knew was right. More than that, it's a tribute to the wisdom and the fortitude of the overwhelming majority of American people who placed their faith in his leadership and in our system. May I express my thanks to the members of the VFW for being an important segment of that majority.

HUMAN REWARD

Mr. FULBRIGHT. Mr. President. From time to time an article appears in one of the newspapers worthy of insertion in the CONGRESSIONAL RECORD for the attention of the Members of this body.

Such an article is that written by Mr. F. R. Buckley appearing in the New York Times of March 6, 1973.

It is a sensitive, perceptive treatment of one of the most important and most misunderstood human relationships which trouble our country.

I ask unanimous consent to insert it in the RECORD.

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

HUMAN REWARD

(By F. R. Buckley)

Should any human being serve another? Is it *right* for one person to devote the greater part of his life to caring for the domestic chores of someone else? And is this, whether wrong or right, desirable?

These socially tender questions were brought up recently in the Op-Ed page, and they continue to itch. The writer's position was that for white or black, domestic service is demeaning. "In short," the article said, "employing household servants reinforces the notion that an elite group is entitled to rights and privileges withheld from others because of the accidents of history."

Leave aside that it's a tricky matter to militate against such accidents (that you were born rich, whereas I poor, and you bright, whereas I dopey), and leave aside whether one ought to penalize the fortunate when in no way one thereby benefits the unfortunate. *Someone* has to attend the menial chores, as they are called: wipe toilet bowls with Lysol, cook, dispose of garbage.

Plainly, no one expects Mr. Nixon to wash out his own undies. I doubt anyone would deem it socially desirable for Leonard Bernstein to polish his shoes during those respites from work necessary for the fermentation in him of the creative juices. (It so happens I *enjoy* polishing shoes, which soothes *my* creative nature; but that's beside the point.) The answer, according to the article, is for household workers to form an agency, of which they are stockholders, and through which the deadly dull dailies get done in an efficient and impersonal manner. Just another job.

What is left out is what our world increasingly needs: love, a sense of vocation and a sense of personally counting.

Permit me two private illustrations. My mother's standby servants have been with her thirty-odd years. Shortly after the war, one quit to take a job at a factory. Shorter hours, higher pay. Within three months she was back. By comparison with her duties as a waitress in a private home, she found the production line to be uncreative and unvaried. It was too impersonal. There was, in fact, she felt, less freedom, less dignity. She was a cipher. But with us, Ella has always been a member of the family.

That's one woman, an American, and a black. In Spain, my white waitress of four years left to get married. Her husband whambang planted her with two infant children, drank away the funds of the flower shop we had financed for him, and ran off. Polo can neither read nor write (and refuses to learn). She has no industrial skills. For a time, she worked in a cafeteria. She implored us to take her back; and contentedly ruled my household until I left Spain, ten years later. She is pensioned, financially secure: but she writes as of two weeks ago that she misses us desperately, and would we somehow bring her over?

These anecdotes make do for half a dozen more I could tell. Not only are some people untrained for increasingly technological contemporary life; not only are some individuals incapable of learning industrial skills, mentally or emotionally; but there are people in this world who prefer the personal contact of working with a family. All forms of labor, without *caritas*, are intolerable. That goes for the junior executive as well as the person at a lathe. To some individuals, there's a satisfaction in the intimacy that can grow between master and servant within a household that can't be had elsewhere. My feeling is that thousands of our presently employed would find this to be so if only Americans flushed out of their psyches the notion that to hire out as a domestic is necessarily to lead a servile existence.

The Pope is the first servant of the church, the President of the people. Every queen has her ladies-in-waiting, every bride her maids. We every one of us serve someone or something, and the only valid criterion is whether what we serve is worthy and commands our love.

No mother is demeaned in the wiping of her baby's bottom; no nurse in the same act of love for helpless old people. Because we are blacks who descend from slaves, or because we descend from white immigrants who may have been virtual serfs in the Old Country, we have evolved a prejudice about a calling (not everybody makes a good servant) that is among the world's most honorable: so long as there is *caritas*. And no matter how universally we hope to train the population, there will always be some for whom work in a household is the logical profession. Depending on that household, it can be rich in human reward.

TREE PLANTING

Mr. SPARKMAN. Mr. President, as we are all aware, our country is facing a serious shortage of lumber today. Unless active steps are taken soon to alleviate and rectify this situation, it could have a most serious and critical effect on many aspects of our Nation's economy, as well as an immediate impact on the housing construction situation that already is approaching the crisis stage. In this regard, the Joint Committee on Defense Production, of which I am chairman, is undertaking a preliminary investigation to determine the causes of this shortage and the reasons for the high prices existing in this market today.

I would like to compliment the Weyerhaeuser Corp. on its reforestation program which was so very well advertised and pictured in the February 27 full page ad of the Washington Post entitled: "This year we'll plant two trees for every family in America." Weyerhaeuser will plant 100 million seedlings in 1973 alone, or 275,000 seedlings a day on land owned in the States of Washington, Oregon, North Carolina, Arkansas, Oklahoma, Mississippi, and in my own home State of Alabama.

It is an ambitious program—and expensive. Certainly we all know that such programs are necessary if we are going to keep up with demands for lumber, plywood, paper and the thousands of other things we use from wood. In emphasizing these demands, Weyerhaeuser points out that every man, woman, and child in the United States uses the equivalent of a 100-foot tree every year.

I think that we all know that forests do more than provide wood. They add beauty, enrich the ecology for all living things, and provide land for recreation. I would like to compliment Weyerhaeuser Corp. on its 100 million annual planting, which is the largest project of its kind ever undertaken. Last year it planted 74 million new seedlings and has consistently been following the principles of tree farming since its very origin, often bringing previously brushy and poorly stocked land into full production with seedlings coming from its own nurseries.

THE DAY MY FAITH MEANT MOST TO ME

Mr. DOMINICK. Mr. President, I am pleased to bring to the attention of my colleagues an article which was written by Michael Kercheval, a young constituent of mine in Grand Junction, Colo. His essay was written in response to the annual Guideposts Youth Writing Contest which resulted in 1,349 entries.

Guideposts is an inter-faith publication of Guidepost Associates, Inc., Carmel, New York. Dr. Norman Vincent Peale is a co-founder and the publisher of Guideposts magazine.

As one of the five finalists, Mike Kercheval was brought to Washington, D.C., and he and the other finalists were guests at an award luncheon in the Capitol recently hosted by Guideposts.

The five finalists represented a cross-section of America, coming from Colorado, Tennessee, Michigan, California, and Connecticut. Mike Kercheval's second place award was a $2,000 scholarship to the college of his choice. He is a junior at Grand Junction High School and the son of Dr. and Mrs. Marion Kercheval.

For the benefit of my colleagues and readers of the RECORD, I ask unanimous consent that Mike Kercheval's essay entitled "The Day My Faith Meant Most to Me" be printed in the RECORD.

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

THE DAY MY FAITH MEANT MOST TO ME

(By Michael Kercheval)

On the Sunday before I left for South America, our family attended church. It was hard to keep my mind on the service, as I was filled with such excitement, but I tried to put my mind to God during our silent prayer. I had just begun to pray when my mind wandered back to the Colombian trip. Doubt hit me. "What am I really doing? Here I am, an inexperienced sixteen-year-old boy, splitting for the wilds—different language, different customs, different people. What if I run into a problem?"

At that moment I tried to think of some way I could back out or just forget about everything and hope it would go away. The minister was now reading the Scripture. Even though I hadn't been listening very well, I remember these words, "Let us give of ourselves unto others."

I had an opportunity to do just this. I realized for sure that I couldn't pass up the chance. I thanked God for this reassurance and asked Him to guide me. After church, I felt confident and ready to carry out my mission. The following Tuesday I was on my way.

After I arrived in our village of Genova, Colombia, and got settled with my partner, Mark, a boy from California, things went well. During the first two weeks we gave over 300 polio innoculations. Many of these we completed by going from door to door on our own, seeking out the young children.

Our second week drew to a close on a Saturday night. The next morning I decided not to go to church, primarily because I would be able to understand so little of what was said. Instead, I decided to read something from the Bible and turned to a page in the New Testament. At first, I didn't really pay too much attention to the passage because I was reading Scripture mostly to put my conscience at ease. However, one part did stick in my mind. Paul, I think it was, was explaining to the early Christians that they weren't followers simply believing in Christ and going to church on Sunday. They should give or do something for someone out of a desire to help and not because they expect something in return.

This thought in mind, I straightened up my room, gathered my vaccine applicators, took the cold, red, sticky polio vaccine out of the tiny refrigerator and set out. I walked the two miles to the village fire station, a choice location right next to the church and across from the marketplace.

I had arrived just in time, for as soon as I opened my bag, all eight of the church doors opened at once to emit a flood of brightly dressed people who rapidly engulfed the entire marketplace. One of the firemen announced over the truck's loudspeaker that I was in the station ready to vaccinate and I was immediately in business.

All day long I worked hard with no chance to stop, even for lunch. It was already dark by the time I finished the last patient. I was so tired when I returned to the hospital that I decided to go right to bed. I had just about fallen asleep when I heard the front door open into the hall. Because I was the only person in this wing, I climbed out of bed and peered outside my door. Before me was a large man, dressed in a suit, holding a huge black man, whose arms cradled a bloody mass of poncho and skin hanging from his stomach.

I helped the uninjured man lay the bleeding native on one of the benches as he explained to me how the man had been wounded in a drunken brawl. I ran down the hall in search of one of the two nurses on duty.

Things happened fast. In a moment I was dressed and helping load the victim into the jeep ambulance, bound for a larger government hospital. I started back to bed. It was 11 o'clock. The nurse stopped me and said that I must go with her since the doctor wasn't there. She was afraid that the injured man might get violent as he became sober and the pain increased.

Oh, no! I thought. *I can't handle this. I've got to get out of this somehow.*

As I was about to make up some phony excuse, again God encouraged me.

"Muy bien," I said to the nurse, and dashed inside to grab my coat.

Once before I had made the six-hour ride between our village and Armenia, a city of about 100,000 people with a fairly modern hospital. I remembered the trip as long and dry, over a narrow, rocky mountain road. During the first hour of tonight's ride, the man slept quietly and the Jeep rolled along smoothly. Then I remembered that this hour's ride before our village and the hour's ride just outside of Armenia were relatively smooth. The worst was yet to come.

I had almost fallen asleep on my metal fender seat when the Jeep suddenly rocked violently and slammed me against the cab. I looked at my watch. It was 12:15 a.m. The patient had also felt the jolt. He began moaning and thrashing around trying to grab the blood-soaked pad placed over his lacerated stomach. The nurse became frightened and screamed orders to me in Spanish, none of which I understood. I became frightened, too, but I knew I couldn't panic. "Okay, God," I prayed to myself, "I really need Your help."

Suddenly the man ripped the bandage from his abdomen, exposing the gory wound. The last thing I wanted to do was touch that mess of a man, but I knew I had to act quickly. I thought of Jesus touching the lepers as I seized the man's arms and blood-covered hands, and tightly restrained them. The nurse, reassured, replaced the bandages and dropped back into her seat in relief. I continued to maintain a warm clasp on one of the man's hands.

The Jeep jarred along and I realized we had five more hours to travel. I thought I could never last out the sight, the smell and the bitter cold. Once again my mind went to the Lord. I thanked Him for the courage He'd given me.

Soon I saw the tightened muscles of the hardened coffee picker relax as though he'd fallen asleep. He continued to grip my hand as if for security. The remaining hours passed. When the patient would moan or try to grab his bandage, I was able to reassure him by merely squeezing more firmly on his hand.

We reached the hospital at 5:15 a.m. and turned our patient over to the capable doctors. As we walked out the door to start our return journey, the sun was just rising over the mountains. Another day was about to begin in Colombia.

A PROPHET WHO HAS HONOR IN HIS OWN COUNTRY

Mr. ERVIN. Mr. President, as a general rule, I do not make insertions in the CONGRESSIONAL RECORD concerning North Carolinians who have distinguished themselves in various walks of life. I am constrained to depart from this rule in this instance.

My good friend of many years, J. D.

Fitz, publisher of the Morganton News-Herald, has been selected as Man of the Year for 1972. As appears from the attached news items, J. D. Fitz has been extremely active in the business, civic, and religious life of my hometown, and occupies the unique position of being a prophet with honor in his own country. This honor, which is being bestowed upon him by those who know him best, could not have been more worthily bestowed.

I ask unanimous consent that the attached newspaper clippings be printed at this point in the body of the RECORD.

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

J. D. FITZ PICKED AS MAN OF THE YEAR

J. D. Fitz, publisher of The News Herald and a resident of Burke County for over 27 years, today was announced as Morganton's Man of the Year for 1972.

The announcement came from the sponsoring Morganton Rotary Club.

Stephen A. Blahut, Rotary president, said Fitz, a longtime Rotarian, had been picked by a secret committee which had just reported its selection to him.

A date will be announced soon for the Man of the Year banquet at which a giant trophy will be presented to the 1972 recipient. Details of the program will be arranged as soon as a time is set for the community-wide dinner.

The 1971 Man of the Year, merchant Burand L. McGinnis, will make the presentation of the trophy which he has held for the past year. In turn, he will receive from the Rotary Club a smaller loving cup for his permanent possession.

Blahut noted in his announcement that the Man of the Year award was begun in 1948 when Fitz was president of the Rotary Club and during the years he has assisted with many of the award ceremonies—as master of ceremonies, program chairman and the like.

He has had a part in saluting many prior Men of the Year but now he is on the receiving end, the Rotary officer noted.

Fitz, who is currently serving as president of the North Carolina Press Association, has been active in a variety of civic and church affairs.

It was as a Rotarian that he started a club project to welcome a Tourist of the Week during the vacation season when Rotarians halt an out-of-state car and invite the occupants to be guests at the club's luncheon. This project, still going strong, has attracted nation-wide attention for Morganton. He still serves as master of ceremonies for the final week's special program when a larger number of tourists are invited.

Fitz was president of the Burke County Chamber of Commerce when he started a project called a newcomers' luncheon at which a few chamber members attend a meeting to welcome new arrivals to Burke County. This is a project which continues.

He was on the committee that arranged for the first American Field Service student.

Fitz is a member of the First Baptist Church where he has served as deacon, currently on the finance committee, many years chief usher and for 15 years teacher for a class of junior boys.

He helped to organize Little League baseball here and served as coach and league official for several years. He is a director of the United Christian Shelter Home and has served on the Burke County United Fund.

Fitz hails from Reidsville. He was born December 16, 1915 at Price, near Reidsville, in Rockingham County of Scotch-Irish ancestry. He was the son of the late M. H. and Dollie Gregory Fitz.

In 1937 he married the former Lena Truitt of Reidsville, and they have one daughter, Mrs. Charles G. (Susan) Poteat Jr.

He and Mrs. Fitz have had a unique addition to their family They co-sponsored with Rotary the arrival of Mr. and Mrs. Ki Hyun Chun whom they brought to this country and kept in their home until they were able to obtain quarters of their own. When the Chuns had their first child—born after their arrival here—they named her Lena for Mrs. Fitz.

Fitz' interest in the newspaper business started at an early age as he grew up in the Reidsville Review. From 1934 to 1935 he was with the Greensboro News Record; from 1935 to 1941 he was with the Shelby Daily Star; from 1941 to 1942 he was with the Northwestern Press, North Wilkesboro. In 1942 he was with Daily Independent, Kannapolis; and from 1942 to 1943 he was advertising manager of the Cleveland Times.

In 1945 he accepted the position of advertising manager of The News Herald, in 1949 he became assistant publisher; in 1955 general manager; and in 1960 he became publisher and he is vice-president of The News Herald Publishing Corporation.

He was secretary of North Carolina Press Association 1959–1969, and in 1972 was elected president. A director since 1969, he served on many committees and is a director of the Journalism Foundation.

It was after he retired as NCPA secretary that he was honored at a state convention session with a "This Is Your Life" type of program.

He is a trustee and member executive of the Gardner-Webb College.

Fitz was president of the Morganton Rotary Club in 1948–49; he was president of the Mid-Western Press Association in 1949–50; Member Sigma Delta Chi; he served for three years as State director of the National Editorial Association; president of the Merchants Association; and was state director of the N.C. Merchants Association.

He was president of the Burke County Chamber of Commerce in 1970.

He served as a United States Commissioner from 1948 to 1951. He was appointed by Governor Terry Sanford as one of the original members of the USS North Carolina Battleship Commission in January 1962, reappointed by Governor Dan Moore and Governor Robert Scott.

From 1943–1945, during World War II, he was first sergeant at the Tank Destroyer Training Center at Fort Hood, Texas.

It was after his discharge from the service in World War II that he came to Morganton for what he thought would be a stopgap or temporary position but he liked the community and remained here to make his home and carve out his career.

[From the Morgantown (N.C.) News Herald, Feb. 23, 1973]

OUR BEST BOW TO OUR OWN

To say that excitement prevails at The News Herald from front door to back shop over the selection of Publisher J. D. Fitz as Morganton's Man of the Year for 1972 would capture the prize for understatement for several years.

We are all as happy as Brer Rabbit in the briar patch—all except J. D. Fitz himself. He's self-conscious and a bit ill at ease. He was president of the Rotary Club in 1948 when the Man of the Year award was instituted, and he has watched with interest and pride at the annual banquets when Morganton has saluted the recipients. It was interesting for him, often the chief planner, to note that a flabbergasted recipient's first reaction was usually "What have I done to deserve this great honor?"

Strangely enough, his reaction is the same. And he wasn't sure that it would be cricket for him to be interviewed by The News Herald about the honor and about himself. He was completely willing for the news department to use the simple and brief announcement from Rotary Club President Stephen A. Blahut.

"I just don't know what the committee was thinking about," he said, with his voice trailing off as if coming out of a daze.

People at The News Herald know the committee had many things to think about. One thing is that J. D. Fitz is a promoter, or a booster, if you will. Because of that talent, things happen when he is around. The committee had only to follow his trail through many interests, all dating back to his arrival in Morganton in 1945. A longtime member of the Rotary Club, he served it as president and started projects in addition to the Man of the Year award which have lasted. He has been active in the Burke County Chamber of Commerce and served as its president in 1971, during which time he began projects which are continuing. He has served as deacon and a busy member of the First Baptist Church and in many other community roles through the years. His memberships and affiliations and positions of honor and service are too numerous to enumerate.

His booster trait permeates his life. He is currently president of the North Carolina Press Association and when he gets around over the state to various press functions, he sounds like a one-man roving Chamber of Commerce for Morganton. It was the same during the ten-year period he served as secreary of the Press Association beginning in 1959 at the death of the late Miss Beatrice Cobb who had held the position for many years. When he stepped down as secretary because of growing responsibilities at The News Herald, the press group saluted him with a "This Is Your Life" type of program at its convention.

Those who know him are aware that what courses through his veins is the cream—not milk—of human kindness and that he is a giant blob of tender compassions which he often tries to conceal. Few things have given him more satisfaction than to be able to spearhead an effort to bring to America an attractive young Korean couple, Mr. and Mrs. Ki Hyun Chun, who remained in the Fitz home until they could secure quarters of their own. To him and Lena Fitz they were "our Korean children," and to them the Fitzes are Mom and Pop. The Chuns now have a tiny daughter, appropriately named Lena, who should prove that a 50 per cent return on any investment should be sufficiently rewarding.

There is much that could be said about the Man of the Year's father image in The News Herald but it gets a little sentimental for being close home.

Suffice it to say, The News Herald will be well represented when Publisher Fitz receives the Man of the Year trophy and they will be among the loudest and sincerest cheerers.

It has been said with more than a semblance of truth, that behind every worthwhile man there is a woman. It is so in the case of the Fitzes. The former Lena Truitt has shared her husband's successes and sorrows and has upheld and encouraged him in his career.

There should be no doubt in anybody's mind about the qualifications of J. D. Fitz for the Man of the Year award. If there should be the slightest reservation in his own mind, let him brush it aside immediately. If perchance he should not merit the great honor at this time, he shouldn't worry. Lena will see to it that he will be worthy in all the years to come. And she's just the Grand Gal to do it too.

TUSKEGEE STUDY

Mr. HUMPHREY. Mr. President, a recent newspaper article points out the im-

mediate need of legislation in the field of human experimentation. At the first open session of a Government probe into the Tuskegee Study, which began in 1932 and continued until publicity closed the project last year, several doctors testified that there is no evidence that participants in the controversial Federal syphilis experiment ever gave their informed consent to participate.

Mr. President, in introducing the National Human Experimentation Board Act of 1973 (S. 878) I stated that mere consent was not an adequate protection for people involved in complicated and dangerous human experimentation. We need information on and guidelines for all experiments involving human subjects that occur in this country. We here in Congress have a moral responsibility to see that Federal funds are not used in inhuman and careless ways.

Two days after the above information was revealed, Caspar W. Weinberger, Secretary of Health, Education, and Welfare, announced that all necessary medical care would be given to the survivors of the syphilis experiment. Mr. Weinberger said:

I have personally reviewed the facts in this study, because of this highly unusual and, to our knowledge, fortunately unique research project, I feel that the Federal Government has a strong obligation to continue medical care for all the participants by providing them a full range of medical services for the rest of their lives.

Mr. President, I submit that the Secretary of Health, Education, and Welfare has no way of knowing whether the Tuskegee study is unique or not. We have no method of obtaining reliable information on Federal projects involving human experimentation.

Mr. President, I ask unanimous consent that the article on the Tuskegee study be printed in the RECORD.

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

[From the Washington (D.C.) Post, Feb. 24, 1973]

SYPHILIS STUDY IS HIT ON NOTIFYING PATIENTS

(By Jean Heller)

Doctors testified yesterday that there is no evidence that participants in a controversial federal syphilis experiment ever gave their informed consent to take part.

Furthermore, they said, the Alabama black men who participated probably didn't know they were subjects of a scientific experiment or understand the nature and potential danger of the disease they had.

And one of the doctors said he believed the participants had been subjected to undue coercion to cooperate.

The men testified at the first open session of a government-appointed citizens' panel investigating the experiment, known as the Tuskegee Study, which began in 1932 and ended after public disclosure of the project last summer. The experiment was sponsored by the U.S. Public Health Service, a division of the Department of Health, Education and Welfare.

In the study, conducted among poor, rural black men in Macon County, Ala., more than 430 men all with syphilis, were never given treatment for the disease so that PHS doctors could study what damage untreated syphilis does to the human body.

At least 28, and possibly as many as 107, of the men died as a direct result of untreated syphilis.

Dr. Reginald James, now with the Social Security Administration, was in Macon County during the late 1930s and early 1940s working on a venereal disease treatment program for the Alabama state health department.

He testified that a nurse assigned to aid him also was participating in the administration of the Tuskegee Study and pointed out the experiment's participants so the doctor wouldn't treat them.

"There were some people who wanted treatment and were told if they took it they would be out of the study," Dr. James said. "They knew they would lose the cash and free burial which had been promised to them in return for their participation."

Dr. J. W. Williams, a Tuskegee doctor who worked as an intern on the experiment in 1932–33, told the panel he helped take blood tests of men who came to the clinics set up by the PHS.

"In the early clinics, nobody was told about the active condition of his serology," Dr. Williams said. "In some cases maybe a person was told he had bad blood and he knew that was a social stigma, but he didn't know what the consequences could be."

Dr. Arnold Schroeter, now a consultant in dermatology at the Mayo Clinic in Rochester, Minn., managed the Tuskegee Study between 1969 and 1971.

"If a patient asked what was wrong with him, he was told," Dr. Schroeter said. "So far as informed consent, I have no knowledge, no record, that was obtained." However, he added that the concept of informed consent did not exist as strongly in the 1930s as it does today.

TECHNOLOGY SCARE STORIES

Mr. GOLDWATER. Mr. President, the administration is making determined efforts to eliminate discrimination against American goods and services abroad.

Because Japanese industry was in shambles after World War II, the United States agreed that Japan should pursue restrictive policies until her economy was rebuilt. Today Japan is thriving, but is reluctant to do away with privileges granted under other circumstances. Of all our trading partners, Japan is the least willing to give American goods and investment a fair shake.

In view of our trade problems with the Japanese, it is dismaying to see an important labor union official churn the pot when an American company has successfully negotiated with the Japanese.

Mr. President, on Wednesday morning, March 7, the Washington Post carried a story on page A–10 entitled, "U.S. Approves Space Rocket Sales to Japan."

On the same day, the New York Times carried a similar story on page 12 entitled "AFL–CIO Says Rocket Sold to Japan Can Be Converted to Military Missile."

The substance of these stories has to do with the objection of Mr. Andrew J. Biemiller, legislative director, AFL–CIO, to the sale of Thor-Delta launch vehicles to the Japanese. He has at least three complaints:

First, the launch vehicles might be converted to military purposes "with little modification."

Second, the export of American technology could have a "devastating impact" on our economy.

Third, the aerospace industry is putting "profits above patriotism" because the deal provides for production in Japan under license and because of the possibility of Japan converting the Thor-Deltas into ICBM's.

What are the facts of the case?

The decision to sell Thor-Delta technology to Japan was made by the U.S. Government as a result of the Japan-United State space cooperation agreement of July 31, 1969. In this agreement the United States undertook to help the the export of unclassified U.S. launch vehicle technology up to the Thor-Delta level. In other words, we agreed to sell the Japanese rocket technologly having a 1968 ventage.

The Japanese undertook to restrict any activities resulting from the use of U.S. technology to peaceful purposes. In addition, the Japanese agreed to prevent the transfer of U.S. technology and equipment to third countries.

I believe our Government was right to approve the sale of the Thor-Delta technology and that Mr. Biemiller is wrong for the following reasons:

First, no guideance system is being provided to the Japanese.

Second, to say that the liquid-fueled Thor-Delta can be converted into an ICBM is a little like saying a Lockheed Electra can be converted into a bomber. Both can be done, but in each case you end up with an outmoded, ineffective, vulnerable, and expensive weapon.

Third, one of the benefits to be gained from America's investment in high technology research and development is a payoff in balance of trade.

Fourth, there are other nations that could provide Japan with the needed launch vehicles.

This appears to be a situation in which technology scare stories are being thrown up to conceal the real motives of the storytellers. It is easy to excite the passions of those who have not had the opportunity to study rocket technology. Just linking the words "Japanese," "rocket," and "ICBM" is enough to rekindle unpleasant memories.

There is an overriding concern in this episode. America must trade in order to survive. Any efforts to disrupt international trade place the Nation in peril.

For example, the United States is increasingly dependent upon foreign sources of energy, mainly petroleum.

A look at the figures show what has been happening. In 1960, we imported $1.5 billion of petroleum products and exported $478 million for a deficit of about $1.2 billion. Each year since then we have imported more. In 1972, the picture was $4.3 billion worth of petroleum imports and $445 million of exports for a deficit of about $3.8 billion.

Those who would disrupt America's trade patterns would be well advised to stop questioning the patriotism of others and closely reexamine their own.

Mr. President, I ask unanmious consent to include the two newspaper articles mentioned at this point in my remarks.

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

[From the New York Times, Mar. 7, 1973]

AFL–CIO Says Rocket Sold to Japan Can Be Converted to Military Missile

(By John W. Finney)

WASHINGTON, March 6.—The A.F.L.–C.I.O. complained to Congress today that the McDonnell-Douglas Corporation, with Government encouragement, was helping Japan produce a rocket that could be converted into a military ballistic missile.

The complaint was lodged by Andrew J. Biemiller, legislative director of the American Federation of Labor and Congress of Industrial Organizations, in testimony before a Senate finance subcommittee on international trade.

TERMS OF ACCORD CITED

Mr. Biemiller cited the sale of the rocket, a Thor-Delta, as an example of what he said was the way the United States aerospace industry was putting "profits ahead of patriotism" in exporting technology developed at Government expense, with a resulting loss of jobs for American workers.

The State Department replied that the Thor-Delta was being sold to Japan under a 1969 agreement on space cooperation in which the United States offered to help Japan acquire the rocket technology needed to launch communications and other types of satellites. The 1969 agreement specifically referred to assistance for Japan on Thor-Delta rocket technology.

Noting that the sale of the Thor-Delta technology was arranged under the Government policy of encouraging international cooperation in space research, the State Department spokesman, Charles W. Bray 3d, emphasized that the 1969 agreement specifically provided that any technology or equipment transferred to Japan "be used solely for peaceful purposes."

Mr. Bray also contended that the Thor-Delta rocket "has very little or no military potential"—a statement supported by spokesmen for the McDonnell-Douglas Corporation.

A conflicting view as offered by Mr. Biemiller, who asserted that "with little modification" the Thor-Delta rocket could be converted into an offensive missile capable of carrying a nuclear warhead over distances of 1,500 to 5,000 miles.

In a statement on the Senate floor, Senator Abraham A. Ribicoff, Democrat of Connecticut, the chairman of the Senate Finance subcommittee, said that Mr. Biemiller's testimony about the export of modern weapons technology raised "serious national security implications."

"The sale of our military technology to foreign nations also raises the issue of why this technology, created at great expense to the American taxpayer, is being sold to foreign companies for production abroad" he said.

MILITARY VALUE DENIED

The Thor rocket was developed by the Air Force in the mid-nineteen-fifties as an intermediate-range ballistic missile with a 1,500-mile range. With the development of longer-range, more reliable intercontinental missiles, such as the Minuteman, the Thor was removed from the classification of military weapons and converted into a rocket for launching satellites. With the addition of the high-energy upper stages, the Thor-Delta has become the workhorse of both the civilian and military space programs.

The argument made by State Department and McDonnell-Douglas officials is that it would take substantial engineering to reconvert the Thor-Delta rocket that is being sold to Japan back to a military role. Even then, they contend, Japan would have an obsolete military ballistic missile.

For example, it was pointed out by these officials, the Thor-Delta, with radio-controlled guidance, does not have the precise inertial guidance now used in military ballistic missiles. In addition, they noted that the Thor-Delta uses liquid fuels, making it extremely difficult to launch on the short notice normally required for military missiles.

In theory, officials acknowledged, the Thor rocket could be converted into a military weapon. But as a deterrent against a missile attack, they argued, it would be a highly vulnerable, ineffective weapon.

Under a principle that has grown out of the pacifist Japanese Constitution, imposed by American officials during the post-World War II occupation period, Tokyo has renounced the acquisition of any offensive weapons. State Department officials said it had been decided that this prohibition did not apply to the Thor-Delta since the rocket had little military capability and would be used only for peaceful purposes in launching communications and scientific satellites.

Under a contract with the United States Government, McDonnell-Douglas will assist Japan in producing an early version of the first stage of the Thor-Delta rocket, with Japan developing her own upper states. The prototype of the first Thor-Delta rocket for Japan is now being built at the McDonnell-Douglas plant in Santa Monica, Calif., but eventually the rockets will be produced in Japan.

The missile arrangement with Japan is the first of its kind, the American officials said.

LOSS OF JOBS CHARGED

The potential effect of the agreement, Mr. Biemiller said, will be to displace several hundred workers now engaged in production of the Thor-Delta rocket as well as to place Japan in direct competition with the United States in the launching of satellites.

The rejoiner of State Department officials was that the model of the rocket being sold to Japan was no longer being produced in this country. They also said that Japan planned to produce only a small number of the rockets for her own purposes, with the first launching not scheduled until 1975.

As another example of how "American industrial leadership is being rapidly sold off and exploited abroad," Mr. Diemiller cited a recent Government-approved contract under which McDonnell-Douglas licensed Mitsubishi of Japan to produce 91 of its F–4 fighter-bombers.

The result, he said, was a heavy loss of employment among United States aircraft technicians, the loss of an export industry and the transfer of a military production facility to another nation.

[From the Washington Post, Mar. 7, 1973]

United States Approves Space Rocket Sales to Japan

(By Dusko Doder)

The Nixon administration has authorized the first major export of advanced U.S. space technology by approving the sale of the Thor-Delta rocket launching system to Japan.

The sale was approved under a 1969 agreement on space cooperation which obligates the Japanese to use the rocket system for peaceful purposes only. The system has "very little or no military potential," State Department spokesman Charles Bray said.

Bray disclosed details of the sale after an AFL-CIO representative told a congressional hearing that the Thor-Delta system which is manufactured by McDonnel-Douglas Corp., is "in the process of being sold" to Japan.

Andrew J. Biemiller, AFL-CIO's legislative director, charged that exports of high technology would adversely affect the labor market.

Sources said the Japanese would get the "first generation" Thor-Delta system, which includes a first stage booster and a second stage rocket, but without a guidance system that is essential for military purposes.

This type of system is capable of lifting payloads of up to 300 pounds into orbit. It has "no meaningful military capability without a guidance system," the sources said.

The United States has developed a second generation of Thor-Delta vehicles with orbital payloads up to 4,000 pounds. The system is one of the smallest used by NASA in its scientific observation satellite program.

Bray said the sale "serves our objective of seeking broader international cooperation" in peaceful exploration of outer space.

However, Biemiller saw the export of aerospace technology as having a "devastating impact" on the American economy and society.

Testifying before the international trade subcommittee of the Senate Finance Committee, he said that McDonnell-Douglas also has permission to build 91 F–4 fighter bombers in Japan and that Northrop may soon build its F–5E fighters in Taiwan.

He said U.S. workers "are understandably upset" over these technology transfers, fearing they are being sold "for the exclusive profit of McDonnell-Douglas while the nation loses a basic resource."

"Millions of dollars in U.S. funds and expensive trial-and-error testing brought about a basic technological system which is now being sold out at a fraction of its worth," he complained.

The State Department would not disclose the sale price. But Biemiller said the sale included $100 million in profits for McDonnell-Douglas and its subcontractors over four to five years.

Biemiller said that the sale of the Thor-Delta was approved after the Japanese decided to permit U.S. capital to invest in the Japanese automotive industry.

"Both moves would profit stockholders of the corporations involved at the expense of U.S. aerospace and automobile workers," he said. American firms with subsidiaries abroad are "putting profits ahead of patriotism," he added.

Sen. Abraham Ribicoff (D-Conn.), chairman of the subcommittee investigating the impact of multinational corporations on U.S. foreign policy, saw "serious national security implications" in yesterday's disclosures.

"The sale of our military technology to foreign nations also raised the issue of why this technology, created at great expense to the American taxpayer, is being sold to foreign companies for production abroad," he said.

UNION CAMP CORP.'S DONATION FOR CONSERVATION OF THE GREAT DISMAL SWAMP

Mr. ERVIN. Mr. President, Union Camp Corp.'s donation of 50,000 acres of the Great Dismal Swamp in Virginia to the Nature Conservancy will not only prove to be of great benefit to Union Camp and its stockholders, but has also nourished the hope of all conservationists.

The Dismal Swamp, including the regions of Lake Drummond and Washington's Ditch, is a wilderness quite unlike other swamplands. Not only can the region boast of a singular history but its wildlife preservation has been of continuous interest to conservation organizations—both locally and nationally. The cost, however, has heretofore prohibited conservationists from acquiring the Great Dismal Swamp in order to preserve it.

Union Camp has nurtured this huge tract and its thick growth of hardwoods, even though pines are preferable to its business interests. This admirable ecological attentiveness has left the heart of the Great Dismal Swamp unspoiled.

For those of us—whether ecologically or historically minded—who share an interest in preserving this region, Union Camp's generous gift is to be considered a far-reaching one which will enable this swamp to be noted and enjoyed for generations. Others hopefully will take their cue from Union Camp and consolidate their efforts in a movement to preserve our diminishing natural areas.

Mr. President, I ask unanimous consent that six newspaper articles from the Norfolk Virginian-Pilot and the Greensboro Daily News be printed in the RECORD.

There being no objection, the articles were ordered to be printed, as follows:

[From the Virginian Pilot, Jan. 17, 1973]

UCC To Give Dismal Swamp—50,000 Acres for Preserve

(By Wayne Woodlief and Don Hill)

WASHINGTON.—Union Camp Corp, is donating its entire dismal swamp holdings—50,000 acres valued at $12.6 million—for preservation as a natural wilderness.

The donation of prime land in the Virginia portion of the historic swamp, astride the Virginia-North Carolina line, is to be announced officially today from the forest products firm's Wayne, N.J., headquarters.

But press releases announcing the gift to The Nature Conservancy, the country's largest nonprofit land conservation organization, showed up on Capitol Hill Tuesday.

Several Virginia and North Carolina senators and congressmen have pressed legislation intended to preserve and protect the Dismal Swamp.

The Nature Conservancy plans to convey the 50,000 acres to the U.S. Department of Interior for operation as a national wildlife refuge.

A formal donation ceremony, involving Interior Secretary Rogers Morton and Union Camp and Nature Conservancy officials, will be held next month in Washington.

Union Camp, at next month's ceremonies, will donate an "undivided interest" of 40 per cent of its Dismal Swamp holdings, and will add more land over the next three years, with complete transfer scheduled during 1975, in time for the U.S. bicentennial celebration.

The Union Camp donation includes Lake Drummond, a nearly circular lake covering about 3,000 acres with an average maximum depth of 6 feet, which, Nansemond Indian legend has it, was created centuries ago by the "Fire Bird"—perhaps a meteor.

It also includes the Washington Ditch, dug by George Washington and his associates in 1763 to drain the land for agricultural purposes.

The 50,000 acres represent about half the Dismal Swamp acreage in Virginia and is "the largest and most significant land gift the Conservancy has received" in its 20-year history, according to Conservancy President Everett M. Woodman.

The Dismal is a wildland of forest and bog, and still contains stands of juniper, cyprus, and other hardwoods. Its abundant wildlife includes wood ducks, pileated woodpeckers, warblers, Carolina wrens, waterfowl, red-shouldered hawks, deer, wildcat, and bear.

The swamp is rich in folklore, with tales of ghosts of Indians and pirates, and eerie lights in the night.

The Union Camp press release indicates that a combination of conservation-mindedness and tax benefits led to the extraordinary gift.

Union Camp Board Chairman Alexander Calder Jr. said "the historic significance of our Dismal Swamp acreage and its proximity to a rapidly-growing major population center (it is 10 miles southwest of Norfolk) make it a vital asset to be retained for enjoyment and use by present and future citizens while providing an important addition to the National Wildlife Refuge system."

Samuel M. Kinney Jr., president of the company, said, "The nation's tax laws, quite properly, encourage this type of action by individuals and corporations.

"These laws make it possible for Union Camp to donate one of its assets—in this case a beautiful natural resource—and in exchange receive the benefit of a deduction of its appraised value from taxable earnings over a period of several years. This benefits everyone: future generations of Americans as well as Union Camp Corp. and its shareholders."

Union Camp owns about 1,700,000 acres in six Southeastern states. One of its predecessor companies, Camp Manufacturing Co., acquired the Dismal Swamp holdings in 1909.

[From the Greensboro Daily News, Jan. 21, 1973]

Dismal's Conservation Is Third Alternative

(By Don Hill)

WASHINGTON.—There were many lovers of the Great Dismal Swamp—and I was one of them—who feared 15 years ago that the fate of that enchanting wilderness was sealed. But in 1968 a new and happier fate began to be woven for a significant section of the swamp.

It was about 15 years ago when the vast holdings of the John L. Roper Lumber Co. passed into the hands of developers and when the latest systems of land reclamation in the swamp began to be perfected.

At that time, a remarkable group called The Nature Conservancy, which could place its roots back to 1917, was known to only a few thousand conservationists.

The Nature Conservancy has had its eye on the Virginia-North Carolina swamp for a long time. But it was in 1968 that its keen-eyed professionals began to perceive the nearing of a tipping point when land values and development methods would place the Dismal Swamp technologically and economically forever out of conservationists' reach.

At practically that same time, Union Camp Corp. began a routine study to find the best use for 50,000 acres of the Dismal Swamp which it numbered among its vast holdings in the East.

It had a number of alternatives.

Its tract, by far the wildest, largest, best managed and most beautiful single property left in the Great Dismal was heavily forested in juniper, cypress and other hardwoods. It had not been cut over in 25 years and would be reaching full maturity in about 20 more. Timbering for profit was clearly a possibility.

So was clearing and draining the swampland, subdividing it and bringing it to the point of first harvest. The "reclamation" would enhance the land's value. Combined with timbering it could reap millions of dollars.

But a third alternative, conserving the land, was attractive also. This has been called the decade of ecology. Union Camp's holdings in the Dismal included Lake Drummond, a hidden-away jewel among lakes. They included Washington's Ditch, surveyed by George Washington. They included the former site of Dismal Town where slaves once lived deep in the swamp cutting shingles for their masters or for bootleg sale.

In the course of studying this third alternative, Union Camp's corporate officials in Wayne, N.J., made a list of conservation organizations to which they might look for help.

In Washington, D.C., the Nature Conservancy's officials were also making a list—of key land owners in the Dismal Swamp. At the head of their list, as the largest and best, was Union Camp.

Pat Noonan, at 28 vice president and director of operations for The Nature Conservancy, wrote to Union Camp expressing interest in the tract.

Samuel M. Kinney, then executive vice president, now president of Union Camp, recalled last week how the decision was made to contact The Nature Conservancy. On the basis of the group's annual reports and the caliber of its backers, like the Ford Foundation, The Nature Conservancy was placed at the top of Union Camp's list.

About a year ago, Kinney and other Union Camp people traveled to Washington to meet with Noonan and his staff. The conversation considered a number of approaches, including the possibility of The Nature Conservancy's buying the Union Camp Dismal Swamp holdings.

Pat Noonan is not what a company president probably expects when he comes to meet with an idealistic young conservationist. Noonan is a tough, direct man, born in the South but raised in Washington, D.C., son of a lawyer and a former scholarship football player at Gettysburg College. He earned a degree in business administration at Gettysburg and a masters in city and regional planning in night school.

He tried planning for awhile, then struck out in his own real estate business in 1967. He's still a licensed broker in D.C. and a professional real estate appraiser. You can get rich in that business with a background like Noonan's. But he quit to join The Nature Conservancy. "We all have different goals," he said last week. "The beauty of The Conservancy is you have something tangible when you finish your work.

Noonan put some hard facts before Union Camp's officials. Among them must have been these: If you sell a $12.6 million piece of property, you can expect brokerage fees and financing discounts to exceed $250,000. If the property was originally acquired for very little, as were Union Camp's Swamp holdings in 1909, you can expect a tax bite of about $4 million. The dollars to keep will probably be about $8 million. But if you give the land away, tax laws written to encourage such philanthropy can give a corporation a tax writeoff of some $7 million.

To a company like Union Camp, which had already invested heavily in the stewardship of its Dismal Swamp holdings and had demonstrated its interest in their conservation, the economics must have seemed irrestible.

But there was a clincher: The federal government since 1926 had been officially cognizant of the desirability of preserving the swamp. So had the governments of both Virginia and North Carolina.

Conservation organization had been crying about the need for decades. In recent years the public had begun to join the clamor.

It was clear that well over a million dollars worth of good will was built into a proposition of Union Camp's donating its section of the Dismal Swamp to be maintained in perpetuity as a wilderness reserve of unique character.

After years of talk, two years of intensive study, and six months of firm negotiations, the deal was struck a week ago last Thursday afternoon and formally announced by Union Camp later in the day.

There are other important owners of Dismal Swamp land, including Atlantic Farms, Inc., Georgia-Pacific, and Weyerhaeuser.

There are many lovers of the Great Dismal Swamp—and I am one of them—who find reason for optimism that some of these other owners may find it possible to follow Union Camp's lead and give or sell their holdings to the future.

[From the Virginian Pilot, Jan. 18, 1973]

Gift of Swamp "Tremendous"

(By Nita Sizer)

SUFFOLK.—"This is tremendous," was conservationist William E. Ashley Jr.'s reaction Wednesday to news that Union Camp Corp. is donating its Dismal Swamp holdings in Virginia to The Nature Conservancy for a reservation as a natural wilderness.

The 50,000-acre section, unique among wild areas remaining on the Eastern Seaboard, has an appraised value of $12.6 million.

Plans call for the swamp land to be conveyed to the U.S. Department of the Interior for operation as a national wildlife refuge.

Ashley, who has actively sought the preservation of the Dismal Swamp for more than two years, said he is "truly delighted. I knew something would be done, but I didn't know Union Camp would come through so generously.

"I'm writing Union Camp today on behalf of local, state and national Izaac Walton Leagues."

The gift, said Ashley, "is going to mean a lot. Our generation will not really feel the full significance. But future generations will see what it means when this area grows into one big metropolitan area.

"It will be probably the only place where people can get away from the hustle and bustle. This was the last place on the Eastern Seaboard we had to work with."

Work on preservation of the swamp as a wildlife refuge has been underway for several years, Ashley said, with the Nature Conservancy helping in an unofficial capacity. Ashley was vice president of an informal group formed 2½ years ago in Virginia Beach for the preservation of the swamp.

That group effort faded. However Ashley, representing Virginia's Izaac Walton Leagues, and Alvah Duke of Chesapeake, representing the Virginia Wilderness Society, appeared before Senate and congressional committees in Washington on behalf of bills introduced a year ago for the swamp's preservation.

He and Duke won national conservation awards in Chicago last year for their efforts on preserving the swamp and were given two state conservation awards by the Virginia Izaac Walton League in October.

Union Camp President Samuel M. Kinney Jr. said Wednesday that the company has retained only gas and oil rights in the property and those only if the Interior Department should someday decide that in the national interest these should be exploited.

Interior Secretary Rogers Morton said, "We are particularly pleased that Union Camp has so appropriately recognized the high responsibility to the nation that goes with the ownership and use of a property which has outstanding value in illustrating the natural history of the United States."

The Nature Conservancy, first started by a group of scientists in 1946 as The Ecologist Union, was incorporated in 1951 under its present name as a nonprofit land conservation organization. It maintains headquarters in metropolitan Washington and regional offices in Atlanta, Minneapolis, Cincinnati, San Francisco, and Arlington.

Jack Lynn, of the organization's Arlington office, said that the Dismal Swamp property soon will be transferred to the Interior Department. The department's Bureau of Sports Fisheries and Wildlife will develop a use plan for it within the next year, Lynn said, "and since the intent is to preserve the ecological system (of the swamp) any plan would have to adhere to that."

He said he doubts that the swamp will be open to the public in the immediate future, adding "My guess is that there will be little change right away."

His organization has about 25,000 members, Lynn said, and exists on support from the public. To date, it has helped in preserving about 350,000 acres, involving more than 850 projects in 45 states and Virgin Islands. Projects include swamps, marshes, prairies, mountains, and beaches.

[From the Virginian Pilot, Jan. 27, 1973]

HER DISMAL SWAMP SECRET WELL-KEPT

By Patrice Owens

VIRGINIA BEACH.—Don't ever tell Mrs. Barbara Racine that a woman cannot keep a secret. Mrs. Racine said that for about a year she kept secret the negotiations between Union Camp Corp. and the Nature Conservancy.

Union Camp is donating its 50,000-acre Dismal Swamp holdings for preservation as a natural wilderness. The property is valued at $12.6 million.

The Nature Conservancy is one of the nation's largest land conservation organizations.

It purchases land or accepts gifts of land to be kept in its natural state.

Mrs. Racine was chairman of the Dismal Swamp Preservation Committee of the Conservation Council of Virginia. For two years, the committee worked toward the donation of swamp land for conservation use.

The 12-member committee organized at Old Dominion University in June 1970. At their first meeting, Mrs. Racine said, they decided to try for government backing for their projects. The committee wrote to the State Department of Conservation and Economic Development, and to the Division of Parks, and were told that funds were not available to back their effort. Mrs. Racine said they then decided to approach the Nature Conservancy.

On the weekend of Oct. 11 and 12, 1970, the committee sponsored a tour of the swamp. Invited were legislators and other conservation groups, including representatives of the Nature Conservancy.

On Aug. 7, 1970, the Dismal Swamp Preservation Committee wrote a letter to Union Camp asking if corporate officials would meet with the Nature Conservancy and consider donating the corporation's holdings as a wildlife refuge or national forest. The committee received a letter from John C. Parker, legal consultant at Union Camp, saying that if the committee and the nature conservancy came up with a good plan, they would meet with the conservancy.

In November 1970, the committee received a letter from the Nature Conservancy's eastern regional director, Stephen L. Keiley.

The letter asked if the committee could collect information about the swamp, including the exact amount of acreage and a map of the swamp with an overlay to scale of the land owned by businesses and private citizens and its value.

"The committee work became an 8-hours-a-day, 7-days-a-week job. We used money out of our own pockets to finance everything. We visited courthouses and went through records of swamp land ownerships, and got quite a lot of help from the Army Corps of Engineers," Mrs. Racine said.

She said that the Nature Conservancy used the committees maps in negotiations with Union Camp Corporation.

The committee approached another owner of large tracts of swamp land about donating the land for either a wildlife refuge or a national forest, Mrs. Racine said. The owners offered to sell the land to the committee.

Not prepared to buy land, the committee told the conservancy officials about the offer. The owners then offered to sell the land to the conservancy at a higher price.

Mrs. Racine said that because they feared that the other land owners might raise prices, the conservancy officials decided that all negotiations should be kept confidential. Mrs. Racine could not even tell others on the preservation committee.

"You don't know how much I've wanted to tell someone. I never want anyone to say that a woman can't keep a secret," she said. "Membership on the committee dwindled down because everyone thought nothing was being accomplished. I was the last member."

The Nature Conservancy asked that the preservation committee provide a brochure on the swamp.

"We had printed 500 of them, and have over 400 left," she said.

Mrs. Racine said that the brochure was the committee's last active role in acquiring the land, but since mid-1972 she received calls from the conservancy office keeping her informed of progress.

A spokesman for the Nature Conservancy said that Mrs. Racine was "kept into the picture locally. We needed somebody locally who could keep the pot boiling."

Mrs. Racine became interested in the swamp while acting as environmental quality chairman for the Virginia Beach chapter of the League of Woman Voters.

She said, "I have lived all over the United States and I have never seen a spot more beautiful. The swamp is anything but dreary and dismal. It is the largest open space area left on the eastern seacoast."

"I have read volumes on the swamp, talked to old timers in the area, and to the Corps of Engineers about it. I would go to sleep at night and dream about the Dismal Swamp. I really don't think I'd get involved with anything this big again," she said.

"I was working on a civic committee to improve the sewer in our area. My husband said once, 'How many husbands can say when they answer the phone that their wives were either out at the swamp or at the sewer?' "

[From the Virginian Pilot, Jan. 18, 1973]

UNION CAMP'S GIFT TO THE PEOPLE

EDITOR, *Virginian-Pilot:*

The Dismal Swamp Preservation Committee is overjoyed that Union Camp is donating 50,000 acres of the Great Dismal Swamp to the Nature Conservancy. At long last the secret we have been keeping is out and we can talk!

For three years the Dismal Swamp Preservation Committee has been the working committee for the National Nature Conservancy. We have provided the Conservancy with background material on the Swamp and have traveled to Washington to meet with the Conservancy and Government officials.

At the request of the Nature Conservancy, we raised funds and printed a booklet on the Great Dismal Swamp. Photographer J. T. McClenny and MacIntosh Studios furnished us with pictures of Dismal Swamp.

The Corps of Engineers aided us in getting Nature Conservancy officials into the Dismal Swamp unnoticed.

The Dismal Swamp Preservation Committee instigated the first move towards the initial meetings between Union Camp and the Nature Conservancy. It has been a long wait for citizens interested in preservation of the Great Dismal Swamp, and many citizens have worked towards this day.

We hope that all citizens of Tidewater Virginia are as excited as we are. Union Camp has made history with this present to the public. Not enough can be said in commending it for its action.

BARBARA RACINE,
Chairman, Dismal Swamp Preservation Committee.
VIRGINIA BEACH.

[From the Virginian Pilot, Jan. 19, 1973]

THE SWAMP GIFT

Union Camp Corporation president Samuel M. Kinney Jr. long may be remembered for his refreshing candor when he explained why his company is donating its entire Dismal Swamp holdings to The Nature Conservancy.

"Although the Nation's tax laws encourage this type action, we were motivated by self-interest," he admitted.

Often in cases of philanthropy, officials seize the chance to emphasize their unselfish human charity rather than cite what's likely the real inducement, a tax benefit. And there are many aspects of the gift that Mr. Kinney could have exploited. This is prime land in Virginia's portion of the historic swamp. It includes the famous Lake Drummond, a nearly circular body of shallow, cypress-stained water that, according to legend, was created by "The Fire Bird."

Mr. Kinney did admit the swamp is a "beautiful natural resource," but didn't mind explaining that the impulse for disposing of the section is that its stand of hardwood isn't accessible for fast, inexpensive harvesting. Today forestry companies such as Union Camp prefer to raise fast-growing pines, move in with harvesting equipment, then reforest with pines, a method that environmentalists in their uncharitableness call "the green blight."

During the 63 years the Dismal Swamp acreage has been in the hands of Union Camp and its predecessor company, it has been cared for with environmental consciousness. The timber in the 50,000 acres is not virgin but has been allowed to stay in hardwood and retain its wildland characteristics. Other swamp acres are interlaced with roads and canals, a legacy of development. In the Union Camp holdings, canals were dug sparingly and no roads were built from swamp spoil.

Mr. Kinney spoke frankly because he wanted stockholders to know the company is protecting their interests. But the company has, in this instance, looked out for the interests of nature lovers, too.

SCRAP IRON EXPORTS

Mr. SPARKMAN. Mr. President, a major objective of our national economic policy must be to insure a continuing and reliable supply of adequate housing to meet the needs of our fellow citizens for shelter. At all price levels, that supply depends in turn upon a constant and reliable flow of building materials at prices builders and the homebuying public can afford.

With this end in view, both the Congress and the housing agencies of the Federal Government have for several decades devoted much time and effort to assuring that supply lines of needed materials shall remain open and the prices remain within the realm of reason.

Because of this I am deeply concerned by the daily reports of serious shortages developing in the domestic supply of essential building materials—shortages which are traceable in some instances to extensive outflows in the form of exports.

A case in point is that of scrap iron and scrap steel. Last year, according to Department of Commerce reports, total exports of ferrous scrap totaled slightly over 7 million tons. This year it is estimated that the total of such exports will reach 11 million tons. Figures released for the month of January 1973 indicate that total ferrous scrap exports for that month were 900,438 tons, and this would seem to give credence to the 11 million estimate for this coming year. This sudden and dramatic increase in the volume of scrap exports has been at the expense of domestic industry and the domestic consumer. I am reliably informed that during the past 6 months, the price of cast iron scrap in Alabama has risen from $42 a gross ton to $56 a gross ton. Price differentials for other grades of scrap have been even more dramatic.

I am also informed that cast iron foundries in the State of Alabama have on several recent occasions had less than 1 day's supply of ferrous scrap in inventory as a result of large exports.

Congress expressed its concern about the risks of uncontrolled exports when it enacted the Export Administration Act of 1969. Only last year, this body extended the life of that act for 2 additional years.

The sense of the Congress in the original enactment of this legislation and the subsequent renewals is perfectly clear. There are times and circumstances when the need for judicious application of exports curbs on a particular commodity is overwhelming. At such times, the national interest is not well served by redundant studies and analyses, or by polite conferences and expressions of sympathy spoken by administration officials to persons and industries in dire need.

I am therefore taking this occasion to call upon my colleagues to join me in a forthright call to action. What the domestic homebuilding industry needs and what the various segments of the iron and steel industry need is action to meet a grave national shortage of iron and steel scrap. The act which was passed by the Congress for situations such as this one needs to be triggered into action.

Incidentally, I am informed that the United States is the only country in the world now allowing the export of steel scrap. This, obviously, greatly increases the pressures on the American supply of ferrous scrap. Our American foundry industry is seriously threatened, and I urge remedial action without delay.

COMMENTS ON SENATOR PROXMIRE'S RELEASE DATED MARCH 8, 1973

Mr. GOLDWATER. Mr. President, in his press release dated March 8, 1973, the junior Senator from Wisconsin charged that there has been a "44-percent increase in 3 years" in the price of each B–1 bomber. His conclusion is wrong—in fact, grossly wrong—and I think that it is imperative that the record be set straight in this regard.

Over the past 3 years, the actual increase in the procurement unit price of the B–1 has been only 3.6 percent, not the 44 percent alleged by Senator PROXMIRE. By unit price, I mean the unit procurement cost in terms of constant 1970 dollars, which is a fair, realistic, and standard basis for identification of costs for comparison purposes. Also, I think it is important to point out that this very small increase has been fully reported to the appropriate committees of Congress by the Air Force. In a moment I will explain exactly how this 3.6-percent increase is calculated.

Why is the Senator's conclusion wrong? It is wrong for the classic reasons—that is, it is based on erroneous assumptions and unsound analysis. Consider the following examples:

First, his figure for percentage increase in price is based upon a comparison of a figure stated in 1968 dollars with a figure stated in "then year" dollars, that is, a figure which includes a factor for continuing inflation in the years ahead. This is the old story of comparing apples and oranges. The way to make an accurate, objective comparison is to first convert all dollar figures to a constant-year basis. This my colleague did not do.

Next, the Senator stated that the price for each B–1 will be $51.5 million. This is wrong. In fact, this overstates the "then year" unit program cost, which includes the cost of research and development as well as procurement costs, by more than 10 percent. In this connection, he made the error of adding operational type costs to acquisition costs and 14 years of predicted economic escalation to arrive at his "unit program cost." Of course, this is in contradiction to the procurement unit and program unit costs concepts applied to all aircraft, and reported to the Congress on a regular, periodic basis.

So in short, what my colleague has done is to compare accurate data in an unsound way.

Now the facts of the B–1 program are as follows:

The B–1 contract was awarded in June 1970. At that time, the estimate for the unit procurement cost—which excludes research and development—was $30.8 million in 1970 dollars. The current estimate for the unit procurement cost converted to constant 1970 dollars, is, as you may know, about $31.9 million. A comparison of these two figures, both accurate and both expressed on a common constant dollar basis, shows that the procurement unit price of the B–1 has risen only 3.6 percent. Moreover, the cost data for this current estimate includes those costs associated with factors such as a recently reported weight increase, and a 3-month extension in the flight program. This extended flight program will allow 6 full months of avionics flight testing by Air Force crews prior to a production decision being made.

Regarding this 3-month extension in the flight program, it must be noted that this in no way can be called a cost growth. Rather, it was a deliberate decision by the Air Force to increase the "fly-before-buy" time, and "fly-before-buy" is a philosophy which the Senator from Wisconsin strongly advocates—as do I. However, we must also recognize that "fly-before-buy" does add cost to a program even though it is a worthwhile investment. In addition, therefore, to this increase in procurement unit cost of which I have spoken, this "fly-before-buy" investment also has increased the development portion of the program unit cost by an additional $373,000 per aircraft.

As I previously said, the Air Force has indeed reported a weight increase in the B–1. However, I believe it is appropriate to remind my colleagues of the structural problems the Air Force has encountered in the C–5A after rigidly adhering to an empty weight specification. Let me assure you that the Air Force does not intend to let this happen in the B–1. Allow me to explain further. In order to focus design emphasis on aircraft structural integrity, an aircraft empty weight goal was established in lieu of a specified empty weight. This empty weight goal was based on preliminary engineering layouts. Since the goal was established, the empty weight estimate has increased only 12 percent. The latest empty weight estimates are based on calculations made from engineering drawings which are now 75 percent completed.

With regard to other assertions made by Senator PROXMIRE, I can only state that they are either misleading, or inaccurate, or both. For example, he states that the program appears to be in violation of the "fly-before-buy" concept, when in fact, as I have already noted, the B–1 program is a premier example of the "fly-before-buy" approach. There is no production option in the current B–1 development contract. Instead, 15 months of flight testing has been planned before a production decision is scheduled to be made. Indeed, the Strategic Air Command, as well as other commands, will participate in the flight test program and will conduct an initial operational test and evaluation prior to the production decision. This will include captive flight testing of the short-range attack missile—SRAM—to prove the aircraft and missile compatibility. In addition, aerial drops of SRAM dummy missiles will be accomplished to test the safe separation of the SRAM from the B–1. The performance of the SRAM, once released from an aircraft, has already been demonstrated in launch tests conducted by B–52 and FB–111 aircraft.

I could go on at length about the Senator's charges. However, what is most important is that we not be deluded by impulsive, unfounded assertions. Rather, we need to keep the true, fundamental aspects of the program before us. There is an essential need to modernize the heavy bomber force, which is now composed of aging B–52's, and there is an essential need to be able to counter the more advanced, sophisticated threats projected for the future. The B–1 is being specifically designed to satisfy these needs.

The B–1 program is an orderly development program which will yield high dividends for our national security. In this regard, there is no substitute for the contribution made by the bomber to our strategic deterrent posture—and no more cost-effective way to maintain the effectiveness of the bomber force than the B–1 program.

A SERIOUS SITUATION IN THE DOMINICAN REPUBLIC

Mr. FULBRIGHT. Mr. President, I desire to call the attention of the Senate to a serious situation in the Dominican Republic. Although some of the facts are still obscure, the basic outline is clear enough:

Approximately a month ago, eight or 10 armed men landed undetected in a small boat on the south coast of the Dominican Republic. As they made their way inland into rugged mountain terrain, they were detected by peasants who reported their presence to Dominican authorities. Units of the Dominican Army, totalling approximatey 300 men, were deployed in the area. Over a period of several days, two skirmishes ensued. In the first, two or three soldiers were killed or wounded. In the second, three guerrillas were killed, one of them identified by the Dominican authorities as former Col. Francisco Caamaño Denó who, it will be recalled, was one of the leaders of the uprising which resulted in the 1965 U.S. intervention in the Dominican Republic. The other five—or seven, as the case may be—guerrillas escaped and at last reports were still at large.

The Government of the Dominican Republic, headed by President Joaquin Balaguer, reacted strongly to this incident. It ordered the arrest of former President Juan Bosch, whom Balaguer defeated in the elections of 1966; of Jose Francisco Peña Gómez, secretary-general of Bosch's party, the PRD—Partido Revolucionario Democratico; and of approximately 200 other PRD members. Although Bosch's house in Santo Dominco was searched by the police, Bosch himself managed to escape, as did Peña Gómez. Many other PRD leaders were in fact arrested and held in jail for a short time. I understand that most of them have now been relased. Despite assurances from President Balaguer, Bosch, and Peña Gómez remain in hiding, apparently fearful for their safety.

I bring these facts to the attention of the Senate, Mr. President, because of the history of intimate U.S. involvement in the internal affairs of the Dominican Republic. As a consequence of this history, most Dominicans believe that the United States still exercises a critical influence on events in their country. It is my opinion that the influence has deceased substantially from what it was 8 years ago, but the operative fact is not what I think but what most Dominicans think.

I would be opposed to any renewed U.S. intervention in Dominican affairs, either open or covert. I do not think we should support either President Balaguer or his opposition. Nor do I think we should give the appearance of supporting either one or the other.

However, given the history of our past actions, it is fair to say that most Dominicans think we are supporting the Balaguer Government. The necessity of establishing not only a hands-off policy, but the credibility of such a policy, provides a golden opportunity to break what ties remain between the U.S. Government and the security forces of the Dominican Government. We would greatly enhance our credibility in the Dominican Republic if we were now to take advantage of this opportunity to withdraw the U.S. military assistance advisory group and publicly to end what is left of the AID public safety program.

The Dominican Republican will have a presidential election in 1974. Preelectoral maneuvering has already started, with the principal issue so far being whether or not President Balaguer will seek to succeed himself. How he deals with the opposition in the meantime thus becomes an important and delicate matter particularly in view of the fact that, as a consequence of the long Trujillo dictatorship, continuismo is an emotional and volatile issue in Dominican politics. Withdrawing the MAAG at this time would serve notice on all concerned that the United States not only intends to follow a noninterventionist policy, but also intends to give the appearance of such a policy.

I hope that the events of the last month do not prove to be the forerunner of a policy of deliberate harassment of the opposition. If they do, then we should also reconsider other forms of assistance to the Dominican Republic which last year amounted to $30 million.

MINORITY VIEWS OF SENATOR SAM J. ERVIN, JR., ON THE CONSUMER PROTECTION AGENCY BILL

Mr. ERVIN. Mr. President, legislation will be coming before the Senate again this year to create an independent Consumer Protection Agency. For this reason, I ask unanimous consent that my minority views expressed in a report by the Committee on Government Operations on S. 3970, the Consumer Protection Organization Act of 1972, be printed in the RECORD. The bill was the object of much debate in committee as well as on the floor of the Senate last year and was finally laid aside in the last days of Congress. I am hopeful all Members of the Senate will carefully study my arguments against this legislation.

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

MINORITY VIEWS OF SENATOR SAM J. ERVIN

"The existence of the CPA will unquestionably make consumers relatively poorer. There will of course be the deprivation of income and benefits which will occur because of the massive bureaucratic delays caused by the CPA and because of the tax revenues needed to cover these delays and the cost of the CPA itself. Consumers would almost surely be better off without such regulation and with the money they pay in taxes to buy more safety and information.

"Beyond that, the delays in putting products on the market and forcing firms to expend resources on clearing new products with the bureaucracy, the heavy governmental burden on products which do not meet some norm of perfection will inevitably increase the cost of commodities. And this increase in costs—dictated principally by the political views of the consuming middle class—is likely to have its most detrimental impact on the poor, who will get more quality only when they can pay the higher price."—Prof. RALPH K. WINTER, *Professor of Law, Yale Law School.*

INTRODUCTION

I firmly believe that S. 1177 and the mood it represents presents the basic issue to the United States Senate of how far we want to travel down the road to a totally federally compartmentalized and regulated society. To my mind, S. 1177 is another major vehicle to allow over-zealous bureaucrats to slow down and impede action within our economic system. With new governmental delays and burdens on the production and development of products within our free enterprise system, I believe we are approaching a real danger point where our economic system, like a burned-out star could cave in on itself.

This measure puts the Federal government directly into every transaction relating to goods or services consummated or contracted for anywhere in the United States of America. It proceeds on the idea that we must let the government do for the people what the people ought to do for themselves. It is premised on the idea that the people of the United States cannot manage their own affairs without government supervision. It proceeds on the idea that the people of the United States shall no longer be required to recognize

their responsibility for the activities of their lives as one of the attributes of liberty.

In short, the bill is based on the theory that every businessman in the United States sits up all night scheming about how he can cheat his customers and that all consumers are a bunch of idiotic nitwits who ought to be put under bureaucratic guard because they can't manage their own affairs.

This bill is being pushed in the name of the consumer, but I can never forget that when the guillotine was about to behead a famous French lady during the French Revolution, she exclaimed, "O Liberty, how many crimes are committed in thy name." I want to say, "O Consumers, what crimes we are about to commit in your name."

TITLE II—CONSUMER PROTECTION AGENCY

Title II would create an independent Consumer Protection Agency (CPA) with the primary role of sending its agents into administrative agency and court deliberations at the Federal, State and local levels of government to protect the interests of consumers.

In S. 1177, the primary role for the consumer agency is that of an advocate for consumer causes and for those only. In the words of the Majority Report, the consumer agency will have "neither the authority nor the responsibility" to decide "what solutions are in the best interests of the public at large." Nor to "balance the consumer interest against any others in order to reach a policy position." Indeed, it is recognized that the consumer agency may, on many occasions, represent only one of many competing consumer interests. The bill then elects to turn the agency loose to select its own mission and act with almost total discretion and impunity throughout our government under the banner of consumerism.

STRUCTURE OF THE CONSUMER PROTECTION AGENCY

An amendment offered during the latter stages of the Committee's review of this bill, and which I supported, changed the structure of the CPA from an agency with a single administrator at its head to a 3-man commission similar in structure to the Law Enforcement Assistance Administration.

Unfortunately, in order to comply with the majority of the Committee's wishes to report the bill for floor action in September, the Committee did not have time to make the necessary additional amendments to conform the remainder of the bill to the new commission structure. Thus, such conforming amendments, some of them concerning substantive decisions, will have to be made on the floor.

For example, we shall have to decide what, if any, are the specific duties of all commissioners—whether the Chairman, alone, may decide whether to take action under the bill, or whether the three commissioners must vote on all proposed actions.

The so-called "heart" of the bill is found in sections 203 and 204 which provide for CPA adversary advocacy in other governmental forums with the right to appeal to the courts decisions of other administrative agencies.

WHEN CAN THE CPA ACT?

To confer this type of authority carries with it the obligation carefully to circumscribe where the Agency will act. This bill provides the touchstone of the Agency's authority in one phrase: The Agency may act whenever it is in the "interest of consumers." Section 401 (11) of the bill defines that phrase to encompass consumer concerns dealing with any business transaction affecting production, distribution, sale of goods, property service or credit for personal use. This definition, of course, circumscribes nothing at all. Rather, it embraces the entire conduct of the government in any matter which may have economic effect. My first concern with this bill is the simple fact that we have unleashed an advocate with the capability of substantially affecting our governmental processes and we have imposed no constraint upon where he may go.

Ironically, despite the language of the bill, it is clear the majority intended something else. The report states that the definition in fact excludes many agency actions which affect the health, safety and economic welfare of consumers. It cites as examples FCC license renewals, NLRB actions and EPA activities. On the other hand, it concludes that a rise in the price of steel, an oil import quota or FCC cable television rules are proper areas for the Agency's concern. But I cannot find in this bill the language that supports these distinctions. We can agree that a rise in the price of steel affects the consumer interest because of its impact on consumer goods. But substantial and costly environmental improvements and unfair labor practices affect the consumer in precisely the same way. Indeed, what consumer would believe that wages, strikes, boycotts and featherbedding do not affect what he buys and how much he pays.

One must conclude that the CPA's power to act is too broad to be compatible with our constitutional system of government.

DIFFERENCES IN HOUSE-PASSED BILL

The differences between the House-passed bill, H.R. 10835, and the bill reported here are too numerous to list in these few pages. Suffice it to say that the House bill is much more limited in scope, would create a statutory Office of Consumer Affairs instead of a 3-man Council, would have a single head of the Consumer Protection Agency instead of a 3-man Commission, would not allow consumer agents to have independent subpoena-like authority, would not allow intervention in state and local proceedings, nor would it provide for Federal grants-in-aid to state and local projects.

DISCRETIONARY INTRUSION IN "PROCEEDINGS" UNDER TITLE II

Section 203(a) of the bill authorizes the Agency to intervene in the more traditional structured proceedings conducted by Federal agencies. Under this section, in the more formalized "proceedings" of such "Federal agencies," consumer agents would enter as a matter of unchallengable right and assign themselves whatever available participatory status they feel necessary to win the case—anything from submitting a written comment to full party status with the right to cross-examine other parties. See Sec. 203(a).

This represents a vast amount of unprecedented discretion, similar to a football fan having the discretionary right to come off the sidelines, whenever he sees the need, and order the quarterback to allow him to play at any of the positions the interloper sees fit to play. All this, of course, in the praiseworthy interest of winning the game.

At present, the forum agency determines whom Congress intended to participate in their proceedings, and what status in those proceedings is warranted under the appropriate law.

The danger, of course, is that the proposed CPA "procedural" discretionary power is, in fact, substantive regulatory power in practice.

It is silly to say that the CPA will have no regulatory function if it is given the power to ask a court to revoke a broadcast license or ban a new drug contrary to the decision of the regulatory agency with primary jurisdiction. Consider how this will work in formal agency adjudications which, by present law, have to be decided upon the record developed during the administrative proceeding. For example, there is no doubt, under this bill, that the CPA could enter any unfair labor practice proceeding of the National Labor Relations Board merely by making the unchallengeable finding that such a proceeding "may" result in a substantial effect upon the interests of consumers in buying fairly priced goods or services. See Sec. 203(a).

Now protection of the interests of consumers may warrant intrusion by the CPA in such a case, but does it warrant full party status (if chosen by the CPA) equal to the labor union involved? That is not for us to determine under this bill only the CPA.

The point is, the NLRB is required to make its decision on the record. If the Board must allow the CPA into a proceeding as a full party in situations where it would not do so under present law, the hearing record could be "stacked" by the CPA's tax-funded lawyers. And it is that very same hearing record upon which the tax-funded courts would rely if the tax-funded CPA appeals the tax-funded NLRB decision.

It is for this reason and others that the Federal Trade Commission, no longer a slouch when it comes to consumer protection, opposes this bill's giving the CPA such rights to intrude in FTC adjudications. See letter from Chairman Miles Kirkpatrick on file with Committee on Government Operations.

I believe that the CPA's "procedural" discretion is, in fact, substantive regulatory power and it violates our wise governmental rule of having enforcement proceedings conducted by a single prosecutor. In part, this belief stems from the precept that one accused of wrong-doing be given a fair chance to defend. But it is grounded as well in sound theories of government: The law enforcement agency formulates its policies within broad objectives and brings its enforcement actions to implement specific goals. Its discretion in this regard and the control of its own proceedings should not be disturbed without good reason. There is no need to sacrifice the teachings of our own experience where the Agency may appear without party status and make its presence felt.

DISCRETIONARY INTRUSION IN "ACTIVITIES" UNDER TITLE II

Section 203(b) of this bill confers upon the advocate an unequivocal right to participate in all of the informal activities in which the government may engage. Under the section, the advocate is to present his views to responsible officials.

Such Federal activities encompass everything a Federal agency or any of its personnel may do—including mailing a letter, making an unauthorized telephone call, holding an intra-agency conference. See Sec. 401(4).

In such "activities", the CPA may, as a matter of unchallengeable right, present oral or written briefs and arguments in situations where persons outside the agency do not participate. See Sec. 203(b)(1). Such a situation would be a policy conference between a Department Secretary and his staff.

In addition, Section 203(b)(2) would require that the advocate "have an opportunity equal to that of any other person outside the Agency to participate in such activity." Such a situation would be a trade negotiation activity between the President or a State Department official and a representative of a foreign government. I find this section the most difficult, ill-conceived and incomprehensible provision of the bill.

It should be noted that a provision was inserted to prevent complete chaos where activities with outsiders took place over the telephone. The so-called "Telephone Amendment" provides that such CPA equal-time participation in activities need not be simultaneous with that of the outsider, but should occur within a reasonable time. See Sec. 203(b)(2).

I have grave concern with the wisdom of authorizing participation of right in any and every informal activity which may be carried out in the government.

Such unbridled power to participate in the billions of Federal deliberations of an un-

structured nature will no doubt result in considerable difficulties for the existing agencies and considerable surprise to the unsuspecting public when used.

Take, for example, a recent matter of considerable concern to and substantial effect on consumers of goods in the marketplace—dock strikes.

What will happen in Federally mediated collective bargaining negotiations when a consumer protection agent shows up, briefcase in hand, and exercises his unchallengeable right to negotiate on equal grounds with labor and management. I submit that such negotiations may be knocked into a cocked, tri-corner hat.

I must concur, for example, with the views of the Department of Justice in its comments about intrusion of the Agency in decisions concerning whether or not particular cases should be filed, settled or appealed. As Deputy Attorney General Erickson stated:

"No other government official has that right at present, and for good reason. The exercise of prosecutorial discretion is a delicate and sensitive task, best left to the branch of government chosen by Congress to conduct litigation * * *."

Nor can I readily acquiesce in a proposal which would inject the Agency in matters of foreign trade and currency exchange which touch so closely upon our foreign policy or, for that matter, in many other areas as well. My first difficulty with this section is that we have not yet begun to explore and we can only dimly perceive the ramifications such intrusions entail.

The language of Section 203(b)(2) is a source of still further concern. It is unintelligible. Every day thousands of government officials deal with thousands of persons outside an agency in the daily conduct of business. Those dealings cover the entire range of human behavior. In these circumstances, what can it mean to have an opportunity "equal" to that of someone else who did or might theoretically participate in a government decision? When an agency deals with many parties, each playing different roles, by what role is that opportunity to be measured?

There is little solace in the explanation offered by the report. In effect, the report states that the language does not mean what it says, but rather what is really intended is to give the advocate a fair chance. Here, then, is still another new standard engrafted on the bill to establish the way in which our government officials must act.

The problems created by this text are not simply problems of confusion. Whatever content we may give to the term "equal opportunity," we have constructed a rigid "right" which we would enact into law. I am concerned that the presence of such a right will convert even the most informal decisionmaking into a type of semi-litigation.

INFORMATION GATHERING UNDER TITLE II

Section 207(a) authorizes the Administrator to gather information concerning the interests of consumer. The Agency may, of course, gather its information from the entire outside world. Section 207(b) buttresses this authority with the power to invoke mandatory processes to collect certain types of information from the public at large. Through the complaint procedures in Section 206, the Agency is provided an additional independent source of raw material.

Specific procedures have been created to enable the Agency to gather additional information necessary to participate in specific government activities and proceedings. Section 205 provides for special notice of government activities and, when such notice is given, access to status reports and general information as well. Where the Agency decides to participate or intervene it further provided that it may invoke the discovery powers appropriate under the host agency's rules of practice and procedure applicable to all participants.

Beyond this, under Section 207(c) we have authorized the Agency to obtain information from other government sources. I have, of course, no objection to obtaining appropriate information from the various agencies in government. But the terms of Section 207(c) go far beyond the bounds of necessity and propriety. They are dangerous, they offend the most rudimentary concepts of due process, and they seriously threaten the proper functioning of the government agencies themselves.

Section 207(c) gives the Agency, in its discretion, the power to collect and organize every document, paper and record in the possession of any agency or department of the United States. It contains only limited exemptions.[1] The information is obtainable by the Agency upon its demand and upon its own determination that it would like to have it. This section of the bill would give to this Agency more power to assemble private data than the fondest notions of those who would establish a new Federal data bank. It would do this without establishing effective protection against misuse of the assembled data for political, partisan or private advantage. The fundamental question raised by this section of the bill is not whether there are adequate limitations upon the Agency's disclosure of this kind of information, but whether anybody—let alone a partisan for a specific cause—should be permitted to collect in his own hands and on his own authority the massive confidential documents, papers and records covered here.

Were there some need for this massive type of access, we might well consider the proper methods of collection and the protections we would impose. But the functions which this Agency is to perform the ample power under present law to collect the data appropriate for its needs argues against the extraordinary power conferred under Section 207(c).

How can this section be reconciled with the execution of the functions we expect our other government agencies to perform? What justification can we invoke to furnish this Agency with access to civil or criminal investigative files compiled for law enforcement purposes even where investigations are still pending and regardless of the need for security? How shall we justify access to the most confidential business or other internal data concerning third persons submitted upon the understanding that it is to be treated confidentially or submitted for limited purposes only? Indeed, we cannot even justify the broad access to all interchange of ideas within an agency itself.

Administrative agencies cannot function in a total fishbowl. As a recent House Report stated:

"A full and frank exchange of opinions would be impossible if all internal (agency) communications were made public * * * (A)dvice from staff assistants and the exchange of ideas amongst agency personnel would not be completely frank if they were forced to 'operate in a fishbowl'."

Nor can they function where their own sources of information will dry up because of their inability to guarantee the confidentiality of information which can only be obtained on that understanding. They certainly cannot function where one man has—at one and the same time—the power to demand the most intimate and privileged details of agency advice and planning for use against the agency itself.

[1] Information relating to national security, personnel, routine executive and administrative functions, income tax returns and policy recommendations. It would also exclude information which an agency is expressly prohibited by law from disclosing to another Federal agency.

Finally, we have created this Agency to provide fair representation of views in the government. It is for this purpose that we have authorized the Agency to litigate, when necessary, with other agencies and with third parties as well. In the litigation with third parties, the special status afforded the Agency under Section 207(c) destroys the very fairness we seek to preserve by having the Agency, along with all other advocates, subject to the rule of discovery in the proceeding. In litigation with other agencies of government, this section would do even more: it would grant to the Agency access to the work product of counsel and communications for counsel in the very agencies against whom it is litigating—and in the midst of the litigation itself. The ultimate irony of Section 207(c) is its destruction of the most rudimentary concepts of fair adjudication.

PROBLEMS IN TITLE III

The last major title of this bill would grant the CPA power to administer millions of dollars of Federal grants-in-aid to State and local consumer activities, both governmental and private.

I see two general problems with this title, one philosophical, the other pragmatic.

First, I would not so much mind a bill that provided similar State and local grants in an effort to decentralize consumer protection and bring it down to the grass roots where it belongs.

A bill that adds to the Federal agencies in Washington while at the same time increases Federal control over activities at the State and local levels, however, is nothing more than a bureaucratic barbell that is sure to give the out-of-condition taxpayer a hernia, if not a broken back.

If there is any doubt that Title III would give a few Federal consumer agents a great deal of control over the direction of programs affecting the economies of various States and localities, I simply ask my brethren in the Senate to review the bill.

Consider carefully the discretion to be enjoyed by the CPA in stipulating for what its millions of dollars should be used. Consider the many governmental and non-governmental organizations in your State—would they be tempted to bow to a Federal agent's conception of consumer protection to get their hands on a million dollars?

My second problem is perhaps more pragmatic than philosophical.

We would create here a commission, the chief purpose of which is to instill new vigor in Federal agency consumer protection efforts.

Yet, during their very first year, we would saddle the three CPA Commissioners with the burden of administering a major grants-in-aid program that would be applicable in all States and territories.

As we have seen with the Law Enforcement Assistance Administration—the principal purpose of which is just to administer grants in a narrow area—the task of dispensing Federal funds can be a complicated and controversial one.

CPA'S POWER TO CHALLENGE OTHER FEDERAL AGENCIES IN COURT—CHANGING THE LAW

Hearing debates on these provisions, and their supportive subsequent sections, I was reminded of a statement in a major Supreme Court case, the law of which may be greatly altered by this bill.

In SEC v. Chenery Corp., Mr. Justice Jackson stated, "Now I realize fully what Mark Twain meant when he said, 'The more you explain it, the most I don't understand it.'"[2]

The *Chenery* case, still the law until this incomprehensible bill is enacted, held in pertinent part that the courts cannot disturb

[2] 332 U.S. 194, 214 (1947).

a decision of an administrative agency where—

"It is the product of administrative experience, appreciation of the complexities of the problem, realization of the statutory policies, and responsible treatment of the uncontested facts. It is the type of judgment which administrative agencies are best equipped to make and which justifies the use of the administrative process * * *. Whether we agree or disagree with the result reached, it is an allowable judgment which we cannot disturb." [3]

Under this bill, Congress will be conferring upon the CPA legislative "standing" to take other Federal agencies to court. See Sec. 204. Standing to sue or appeal, heretofore, was a judicial conclusion based upon the facts and the law in each case.

Our overburdened Federal courts, if this bill is enacted, will now be faced with a docket full of U.S. v. U.S. cases where on Federal agency endowed by Congress with the automatic right to sue to protect the "interests of consumers" is challenging another Federal agency endowed by Congress to take action in the "public interest."

This will mean, of course, that the courts will not be able to trust in Congressional judgment and give great weight to agency expertise. The courts will have to become, in a great many cases, administrative agencies themselves to decide de novo the issues when the "Government" comes to them speaking with two voices.

For example, in a recent case of considerable concern in consumer circles, the Food and Drug Administration decided after extensive hearings that peanut butter should contain at least 90 percent peanuts, otherwise it must be labeled imitation peanut butter.

Some consumer groups were satisfied, others wanted a higher percentage. Manufacturers, most of whom produced peanut butter with less than 90 percent peanuts, wanted less, pointing to the fact that consumers liked the taste of their products and considered them peanut butter.

Now suppose the CPA were involved in this case and it challenged in court, as a congressionally mandated expert, the expertise of FDA. Which expert should the court give weight to?

The answer is that the court must go into the record itself to find out which side is right. In effect, the court must hold judicial peanut butter hearings, thus the court could become enmeshed in the type of judicial situation which was supposed to be avoided by Congressional creation of an administrative process.

CONFUSION OF PUBLIC DUTIES AND PRIVATE RIGHTS

Some may point to this example and say, quite rightly, that the consumer groups and manufacturers involved could have appealed.

In point of fact, this FDA, peanut butter decision was appealed by the manufacturing interests. The courts denied their pleas on, among others, the grounds mentioned above in the *Chenery* case.[4]

Some might ask, therefore, why not give the CPA the same rights as the manufacturer? The answer is fundamental to our form of government, but a point that has been to often overlooked in considering this bill.

It is one thing to point at the actions of private special interest representatives, be they manufacturers, consumers or environmentalists, in challenging their government in court. That is their right, a right to be cherished.

It is an entirely different thing to confuse that private right with the congressionally mandated duty of Federal agencies to protect the rights of the public.

In cases of special interests challenging governmental actions which affect them, the government often, if not unusually, prevails. In cases of government versus government—as proposed in this bill—the government, by definition, always loses. And that loss, if it could have been prevented, means a failing of Congress.

Such internecine warfare indicates not a perfecting furtherance of the governmental process, as in the case of a special interest standing up for its rights, but a breakdown in the government, a house divided which must rely upon the Judicial branch to administer the laws.

This distinction between private rights and public duties is sometimes hard to perceive. Perhaps an analogy to the Judicial branch might make clear this distortion of lawyer-client relationship.

Suppose I were to introduce a bill allowing the judges of any Federal Court of Appeals—not the parties before the court—to intervene in the proceedings of any other Federal Court of Appeals to protect consumer interests, and where the intervening judge disagreed with the decision of the forum judge, to appeal that decision to the Supreme Court as any adversely affected party could.

To assure passage of this bill, I would call it the "Consumer Interest Protection Organization Act," fill it chock full of legal rights that only a handful of lawyers would understand, have Ralph Nader demand the resignation of Chief Justice Warren Burger, and delay progress of the bill until an election year.

To be sure, a small handful of reactionaries might try to argue that intervention by one Federal judge into the responsibilities that we pay another Federal judge to perform is a waste of taxpayers' money, dangerous to our government and would produce coercion and chaos in our court system.

These arguments easily could be overcome by pointing out that the bill would only provide for procedural not substantive or regulatory rights, that it only would be allowing governmental officials to do better what private citizens could do, and, most important, the arguments of these reactionaries should be totally discounted because they represent special interest groups with less voting power than the larger consumer special interest group.

NONPARALLEL PRESENT CASES

To be sure, there are now very limited instances where one Federal agency's differences with another cannot be mediated through the Solicitor General, and an appeal is taken on limited grounds, rather than such pervasive grounds as consumer interests.

For example, the Justice Department's Antitrust Division has at times challenged in court the actions of other agencies on the grounds of their potential anti-competitive effect.

One need only review these few U.S. v. U.S. cases to see the great difficulties the courts face in resolving two conflicting, but authorized, federal actions. These time-consuming cases almost always result in lengthy and convoluted opinions with major dissents. They are also usually taken to the Supreme Court at taxpayers' expense—paying the costs of plaintiff, defendent and court. And, invariably, the courts are forced to "make law." [5]

The proper goal of this special interest legislation should be to improve the various administrative forums to assure that the interests of consumers, as a vital part of the larger public interest, are given due consideration.

This goal cannot be achieved by making the courts the arbiters of the pervasive intricacies and vagaries of what is best for each American in his consumer aspect. It is for Congress to attempt to achieve this goal by drafting a law with considerably more attention to the problems involved than has been given in this bill.

CPA'S IMPACT ON THE COURT

It is legislation such as this that Chief Justice Warren Burger had in mind when he delivered his "State of the Judiciary" message to the American Bar Association in San Francisco last month.

The Chief Justice urged that reporting committees file with the Judiciary Committees a "Court Impact Statement" so that the needs of the overburdened courts could be considered by Congress as well as the needs for new legislation.

In this regard, I have received letters from two high-ranking administrators in the Judiciary branch, the Head of the Administrative Office of the Courts, and the Director of the Federal Judicial Center, stating that referral of this bill to the Judiciary Committee would be appropriate.

CPA'S IMPACT ON CONGRESS

The Chairmen of the Committee on Agriculture and the Committee on Banking and Currency have written to me as Chairman of the Government Operations Committee indicating that they may seek referral of the bill to their committees because of the many programs conducted by agencies within their oversight responsibilities which would be affected by the bill.

It is not hard to foresee the CPA, itself an oversight, agency, requesting to justify its existence by testifying against its sister agencies at the various Congressional oversight hearings on these other agencies.

This may have some salutary aspects, but, on the other hand, we must realize that we may be legislating governmental cat fights here in the Senate as well as in the courts.

CPA'S IMPACT ON AGENCIES

It was the late President John F. Kennedy who warned Congress that statutes under which Federal agencies operate "should neither place responsibilities upon agencies beyond the practical limits of administrative action, nor couch their objectives in such indecisive terms as to leave vast areas open for the free play of agency discretion." [6]

This bill flunks that test in a unique way—it would place responsibilities upon existing agencies well beyond the practical limits of administrative action by commanding all of them to change their rules of procedure to accommodate the free play of CPA discretion in their deliberations. See Sec. 203(c).

In that same Message to Congress, President Kennedy warned that, although Congress and the President should oversee carefully the activities of Federal agencies—

This does not mean that either the President or the Congress should intrude or seek to intervene in those matters which by law these agencies have to decide on the basis of open and recorded evidence, where they, like the judiciary, must determine independently what conclusion will best serve the public interest as that interest may be defined by law." [7]

Intervention, if determined necessary by the Executive or the Congress, he said, should be accorded no special preference or influence.

The CPA, of course, would have unprecedented preferential powers with which to influence such agency decisions.

CPA AND "FEDERAL AGENCY"

Let us take a hard look at the intrusion powers proposed for the CPA in this bill.

First, one has to realize that these powers apply to "Federal agencies," a term defined

[3] Ibid. at 208–09 (1947).

[4] See *Corn Products Co.* v. *HEW*, 427 F. 2d 511 (3rd Cir. 1970), *cert. den.*, 400 U.S. 957.

[5] See, e.g., *United States* v. *Philadelphia National Bank*, 347 U.S. 321 (1963), lengthy and convoluted opinion with strong dissents.

[6] See Message from the President of the United States relative to the Regulatory Agencies of Our Government, April 13, 1961.

[7] Ibid.

in the bill to mean "agency" as defined by the Administrative Procedure Act, including wholly owned Government corporations. See Sec. 401(9).

The Administrative Procedure Act, in turn, defines an "agency" as "each authority of the Government of the United States, whether or not it is within or subject to review by another agency"; certain few exceptions are provided, including Congress, the Federal Courts and territorial governments.

During the Committee's executive sessions, we exempted the Central Intelligence Agency, Federal Bureau of Investigation, National Security Agency and the national security and intelligence functions of both the Department of Defense and the Office of Emergency Preparedness.

A question to be resolved on the floor is whether such organizations as the Pay Board, Price Commission, etc., are "Federal Agencies" if they are excluded by statute from the definition section in the Administrative Procedures Act. See, e.g., Section 207(a) of the Economic Stabilization Act, as amended, P.L. 92-210, 85 Stat. 743.

SURVEY OF FEDERAL AGENCIES

The Subcommittee on Executive Reorganization was asked by Senator Allen in December of last year to survey the major Federal agencies to determine which of their responsibilities might be affected by the proposed Consumer's Protection Agency. Since the Subcommittee felt that there was not sufficient time to solicit the agencies views, Senator Allen wrote each of them personally.

As of August 10, Senator Allen had introduced into the Congressional Record responses from 36 Federal agencies. Over 1300 proceedings or activities that would be subject to CPA intrusion were described in these responses, and many additional activities were subsumed in several general comments similar to that of the Federal Communications Commission:

"If the provisions of section 203, which enpowers the CPA to intervene as of right in Commission 'proceedings' and 'activities' which 'substantially affect the interests of consumers,' as defined in section 401, are broadly interpreted (as required by section 3(5)) then it could be contended that potentially everything the Commission does could affect the interests of consumers. The decision to intervene or participate would rest with the Administrator's interpretation as to how 'substantially' the proceeding or activity affected the interest of consumers."

I also understand that since his last Congressional Record insert on August 10, Senator Allen has received responses from additional Federal agencies showing many more Federal proceedings or activities, and there are inquiries still unanswered.

IMPORTANCE OF REVIEWING AGENCIES VIEWS

One of the basic premises of this bill is that the Senate cannot exercise adequately its oversight functions and must delegate them to an independent agency.

But surely those of us who have oversight responsibilities can at least care about them enough to attempt to find out which of them would be affected by this bill.

Senator Allen, who also serves on the Agriculture Committee, sent his first inquiry to the Department of Agriculture, requesting that they provide him with a list of the proceedings and activities subject to sections 203 and 204 of the bill (the adversary advocacy sections).

The USDA replied with a 31-page memorandum listing matter-of-factly hundreds of its proceedings and activities that would be subject to attack by the CPA. If I were on the Agriculture Committee, I would think that this USDA letter was must reading in preparation for the debate. It convinced Senator Allen to attempt to alter the bill in Committee with the Amicus Amendment, and, when that failed, to vote against the bill that he wished to support.

The critical issue here is whether it is appropriate to delegate to one agency such potentially disruptive discretionary power, or are there areas of our oversight that we wish to withhold from all or part of the operations of this bill?

I do not think that it is responsible to say, as some do, that we should rely on the judgment of some unknown political appointees, and not worry about them sticking their noses into where they clearly do not belong.

If the CPA does not belong in any particular area of Federal activity, we should prevent it from entering that activity now, not wait until it does unexpected damage five, ten or fifty years from now.

Allowing blanket participation in all of Government might be acceptable if we were treating this CPA as part of the Government under the Amicus Amendment. But we are here creating a fox to put in the Federal henhouse.

AGENCIES RESPONSES STILL RELEVANT

There may be some who, either having not read the bill or not understanding it, may question whether Federal agency response based upon Committee prints prior to this one are still relevant.

A complete review of the letters indicated that they still reflect accurately the effect the reported bill will have on the agencies responding.

After the Committee completed action on S. 1177, I wrote to each agency and asked if their initial response would be changed by the Committee bill. All the answers which I have received thus far indicate that there would be no change in the original letters.

While I have not heard from the Internal Revenue Service, there is one major exception pertaining to that part of the Internal Revenue Service reponse that describes proceedings and activities revolving around income tax returns.

Senator Allen was successful in amending the bill in Committee to modify the proposed power under which the CPA would have an unchallengable right to demand and review copies of consumers' income tax returns. His amendment would prevent any CPA access to such returns under this bill. The many other listed proceedings described in the IRS letter still apply, however.

There also may be minor exceptions pertaining to parts of the responses of the Defense Supply Agency and the Office of Emergency Preparedness. Those few described proceedings applicable to national security or intelligence functions no longer would be covered under an amendment made during the latter stages of the full Committee's review. See Sec. 407.

The remainder of the proceedings still would be subject to CPA disruption if the CPA decides to enter them.

No one can stop the CPA from entering any Federal agency deliberation of its choice. See Section 210(e)(1); Section 203.

If the CPA says that any Federal agency deliberation may affect substantially the interests of consumers, no one man challenge that determination. See section 210(e)(2).

The "guideline" provided the CPA for determining what are the "interests of consumers" is so broad as to be all-inclusive. See Section 401(11). Literally everything the Federal government does easily could be interpreted by the CPA as falling within this definition of "interests of consumers"—a President's conference with advisers on whether he should recommend a declaration of war, for example, would be an "agency activity" that "may" result in a substantial effect on the major concerns of consumers relating to the costs or availability of goods bought in the marketplace.

FEDERAL AGENCIES WARN AGAINST CONSUMER PROTECTION AGENCY

Although Senator Allen's inquiries asked the Federal agencies to merely supply him with a list of their proceedings or activities that would be subject to CPA intrusion and appeal to the courts, many agencies could not supress their fears or refrain from asking directly or by implication for an exemption.

The Justice Department filed one of the most stinging objections to the bill, warning that CPA intrusion in the Department's exercise of its prosecutorial discretion to file, settle or appeal a case could disrupt this delicate and sensitive task. The Justice Department, registering several warnings relating to other specific problems of broad adversary advocacy, stated its total opposition to the bill and concluded the "proposed [Consumer Protection] Agency's powers of advocacy and intervention in Federal administrative agencies' decision-making are too broad, and pose a threat that the orderly and effective dispatch of the public business in the public interest might be significantly disrupted."

The Tariff Commission raised several problems that would be caused by CPA intrusion under this bill, chief of which was the difficulty of preserving the Commission's independence. The Tariff Commission warned that if the bill were enacted, it would take internal procedural steps to protect itself and preserve its independence.

The Internal Revenue Service raised the question of whether, under present section 203(d), the CPA could request that Revenue Rulings under the Revenue Code be revoked or modified or even that new Rulings be published, and, if IRS failed to act, whether it would be required publicly to give its reasons therefore [and be subject to court appeal by CPA]. The answer, of course, is yes.

The Department of Agriculture, in the cover letter to its memorandum listing affected USDA proceedings, asks whether its administrative decisions to recommend institution of criminal prosecutions or civil or administrative proceedings would be subject to CPA intrusion. The answer, of course, is yes. [I also have been asked whether a Committee amendment excluding "Government sales to foreign governments" from the section 401 (11) definition of "interests of consumers" exempts the activities of the Commodity Credit Corporation. Research has indicated that it does not, and, if that was the intent of the Committee, a more specific amendment will have to be offered on the floor.]

The Agency for International Development was quick to point out that it does not consider its activities to affect American consumers "directly." AID's opinions as to direct or indirect effects, of course, have nothing to do with this bill under which the CPA makes all such decisions.

The Atomic Energy Commission pointed out that even its preparation for congressional hearings and its drafting of recommended legislation, because they are authorized "activities," would be subject to CPA intrusion.

The Federal Mediation and Conciliation Service expressed serious concern over the impact of CPA intrusion in its collective bargaining activities, saying that it would have an adverse impact on the Service's mission.

The National Labor Relations Board, similarly, stated that because of the sensitive nature of its duties, it never allows third parties into formal Board proceedings, except as an amicus curiae. That will all change, of course, if this bill is enacted.

The Federal Power Commission stated that "the authority which this bill would confer upon the Consumer Protection Agency, if improvidently exercised, could substantially hamper effective regulation by this Commission . . . by postponing finality of decision

in matters of pressing public concern. The power to seek judicial review even in the absence of such intervention or participation could impose another layer of regulation upon this Commission and impair its effectiveness to the detriment of the public."

The Pay Board also commented similarly, saying it has no problem with CPA participating as a witness in public hearings, but that it does not want to allow third persons who do not have a direct and substantial financial interest to interject themselves into sensitive informal negotiations.

The Price Commission pointed out that it handles very confidential information that is prohibited from legal access to third parties. The CPA, of course, would have such access under this bill.

The Tennessee Valley Authority raised objection to CPA intrusion in its Board's power ratemaking deliberations, as well as its pricing of fertilizer, saying these functions should remain the responsibility of the TVA, and not subject to CPA advocacy which would be "most undesirable" and lead to unnecessary "public misunderstanding and dissatisfaction."

The Office of Emergency Preparedness stated that, "A very large number of activities, even of this single agency, might be affected—and adversely so—by the sweeping sphere of activity of the Consumer Protection Agency under the bill as presently written."

The Transportation Department stated that it would be a difficult for it to list all of its affected responsibilities, because the definition of "agency activity" subject to intrusion "is so general as to encompass a wide range of activities under the many statutes which the Department administers."

The Comptroller of the Currency said that the bill presents a "potential serious problem" with respect to the CPA gaining access to bank records through the various Federal banking agencies.

The Federal Deposit Insurance Corporation stated that, "Sections 203 and 204 seem sufficiently broad to encompass any action of the Corporation."

The Food and Drug Administration response stated that "presence of a consumer representative could inhibit the free exchange in such informal hearings" as those concerning whether to report an action to the Attorney General for criminal prosecution.

The Postal Service and the Postal Rate Commission pointed to the statutory Postal advocate which represents the public in their proceedings as evidence for there being no need for CPA intrusion.

The Federal Trade Commission stated, "while the Commission is most interested in receiving any information a consumer advocate may wish to transmit, whether in a rulemaking or in an adjudicative proceeding, we are somewhat reluctant to support his active intervention in the Commission's adjudicative proceedings."

THE "AMICUS" AMENDMENT

There was an amendment proposed in Committee that, in my opinion, would have solved many of the problems in this bill without doing violence to the ideals of the most enthusiastic supporters of a CPA.

Termed by some as the "Amicus" Amendment, it was defeated by a vote of 10 to 5 in our 18-man Committee.

It should be given serious attention on the floor when it is raised again.

It borrows from the concept of an amicus curiae ("friend of the court"), an advocate who intervenes in a friendly, not adversarial, fashion, to aid the court in interpreting the appropriate law.

The Amicus amendment would give the CPA far more powers than an amicus curiae, of course, but its philosophy is similarly positive, not negative.

The CPA, under the amendment, would be allowed to enter, as of unchallengeable right, all of the proceedings and activities that the CPA would enter under the reported bill.

Thus, as with the present bill, the amendment suffers from the fact that Congress would have no idea where the CPA would go among the various bureaucracies. But it compensates for this by defining more narrowly and constructively what the CPA could do in its forays.

When in such proceedings or activities, the CPA would have a 3-step form of advocacy which would be much less inefficient, and far less disruptive, than what is proposed in the present bill.

First, it would present arguments and briefs, orally or in writing, in the same manner as an amicus curiae in court. That is, it would not participate as a party in all the day-to-day and month-to-month legal infighting, but act on a higher plane as one of the Government attempting to assure with efficiency and without disruption that another part of the Government gives due consideration to the interests of consumers.

Secondly, the CPA would, as of unchallengable right, be granted an opportunity to present its written views on the written data, views and arguments upon which the forum agency will make a decision. That is, prior to taking final action, the forum agency must give the CPA the right to have the last word, so to speak.

Thirdly, rather than appealing the decisions of its sister agencies to the courts, the CPA would have the unchallengeable right to seek an administrative rehearing or reconsideration, where such is available, of any decision with which it disagrees.

In the courts, the Amicus amendment provides the CPA with the unchallengeable right to enter, as an amicus curiae to protect consumer interests, any proceeding involving federal law.

Trial period approach

Supporters of the Amicus approach, of which I am one, stress that this should be considered a trial period approach.

We anticipate that the CPA shortly would return to Congress and ask for more power if needed to deal with specific problems. At such time, the CPA would not only be able to describe these areas of need, but to suggest appropriate procedures for implementing the new powers.

Who will deny the CPA the powers it demonstrates it needs? Who can prove now that the CPA needs the strongest possible powers to cover the proceedings of the smallest Federal monument commission to the Office of the President? Few, if any, know what "Federal agencies" exist in the sprawling Federal Government.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

ORDER OF BUSINESSS

Mr. ROBERT C. BYRD. Mr. President, I know of no further legislative business that the leadership intends to call up today, and I know of no further executive business that the leadership intends to call up today.

EULOGIES OF FORMER SENATOR GUY M. GILLETTE, OF IOWA

The PRESIDING OFFICER. Under the previous order, the legislative business having been disposed of, there will now be a period of not to exceed 1½ hours for speeches eulogizing the late Senator Guy Gillette.

Mr. HUGHES. Mr. President, as it happened, Guy Gillette's wife was a native of my hometown. There are those who still serve on the floor of this august body who had the opportunity of serving with Guy Gillette. One of those is present on the floor today in the person of the distinguished senior Senator from Vermont, a man who is certainly a senior Senator in the entire Senate.

Mr. President, I first yield to him at this time.

Mr. AIKEN. Mr. President, Guy Gillette was a Member of the Senate when I arrived here in January of 1941. I lost no time in associating myself with him in his work, which was primarily agriculture.

I might say that for the first 2 or 3 years I was more closely associated with Guy Gillette than almost any other Member of this body.

As a member of the Agriculture Committee, I served with him on what was called the Gillette rubber committee, a committee which was seeking a way to produce rubber from domestic sources, particularly from milkweed, since our supply of natural rubber from other countries was being cut off by the war. It was our business to visit certain parts of this country—I believe we went to Canada also at one time—trying to figure out some way to produce more rubber here in our own country.

The efforts of this committee were very helpful temporarily, although synthetic rubber, like other synthetic materials, was eventually manufactured from petroleum.

Guy Gillette's first interest was agriculture, a subject which was of paramount importance in his home State of Iowa, and American agriculture today owes much to this great statesman.

I well recall his interest in the international field, where his differences with President Roosevelt were quite pronounced and where American agriculture played such a great part in restoring the war devastated countries.

He was, indeed, devoted to American agriculture, to his home State of Iowa, and to his country.

Although we regret his passing, we are indeed glad that he had such a long and useful life, in which he accomplished so much for these United States of ours.

Mr. HUGHES. Mr. President, I want to express my deep appreciation to the leadership of the Senate for scheduling this time for eulogies of a great Senator and one of the most illustrious citizens ever to be produced by my native State of Iowa.

Guy Mark Gillette died on Saturday, March 3, at the age of 94, in his home community of Cherokee, in western Iowa. Cherokee is just 28 miles from my home town of Ida Grove.

A warm, genial man who had many friends in Congress on both sides of the aisle, I know it would have made him happy that a number of his Senate friends and colleagues are expressing their esteem and friendship for him to-

day. His son Mark, the only immediate family member who survives, will cherish these words of eulogy.

We remember Guy Gillette as a tall, handsome, silver-haired man, who looked and lived the part of the great Senator he was.

We remember him as a ruggedly independent spirit who did not hestitate to challenge the most powerful leaders if he thought they were wrong—as was the case when he stoutly opposed President Roosevelt over the packing of the Supreme Court.

We remember him as a public servant big enough to change his mind when he felt the national interest warranted such a change. A strong isolationist in the 1930's, he became a devout internationalist in the 1940's and aided in the establishment of the United Nations.

In this context, we particularly remember his dedicated involvement in the formation of the new nation of Israel.

We remember, perhaps best of all, that despite all of the distinctions he won in the course of his life, Guy Gillette remained a plain, unpretentious, friendly person, who never lost his roots in the Iowa soil and his feeling for the people of his native State.

A farmer himself, he felt that his most valuable contributions in his public service career were in helping to meet the legitimate needs of the farmer—helping them to get power and lights for their farms and to develop soybeans as a new cash crop.

What it adds up to is that Guy Gillette had that ideal balance we seek in a Congressman and a Senator—an ardent concern for the needs of his own State but, along with it, a wise and courageous concern for the national interest and for our role as a nation in the world community.

I knew Guy Gillette over a period of many years—first as a legendary hero and, later, as a wise counselor and father-figure. His home town of Cherokee was near Ida Grove, where I was born and lived—on the beautiful western slope of Iowa, in the valley of the Missouri River. Mrs. Gillette, who preceded the Senator in death in 1956, originally came from Ida Grove.

Although a strong man and a commanding presence, Senator Gillette never forced his opinion on you or denied his help when it was sought.

Stewart McClure, staff director of the Labor and Public Welfare Committee, who served as Administrative Assistant to Senator Gillette, sent me recently a copy of a letter he had received from the Senator back in 1964. I was Governor of Iowa at the time and had asked Senator Gillette for help in checking out the possibility of Federal assistance for an alcoholism project involving studies with the four Scandinavian countries. As always, the Senator responded promptly and generously and his letter to Stewart McClure was to enlist his former associate's help in running down the requested information.

Guy Mark Gillette was born on a farm 2 miles west of Cherokee, Iowa, on February 3, 1879. He received a law degree from Drake University in 1900 and practiced law in Cherokee for 17 years. He enlisted in the Spanish-American war at 19. In World War I, he became a captain in the Army serving 5 months overseas.

Following the war, he returned to farming for 14 years, a time he later described as a period of "happy days" in his life.

Pressed by friends to run for Congress in 1932, Guy accepted the nomination with considerable reluctance, but, once having committed himself, he characteristically gave the campaign his best effort. He won by 10,000 votes that year, and 2 years later boosted his margin to 26,000 votes.

In the light of current controversy over food prices and agricultural production, it is interesting to note that, as a Congressman, Guy Gillette exerted effort to expose monopoly and profiteering by middlemen in the food industry.

As a Congressman and New Dealer, Guy Gillette soon showed the independence that was to characterize his public career throughout its duration. He opposed the National Recovery Administration program of President Roosevelt and voted against the Roosevelt administration's Agricultural Adjustment Act.

He was renominated for the House in 1936, but that summer, following the tragic death of Senator Richard Louis Murphy in an automobile accident, he was nominated for the Senate vacancy and won it handily that fall.

In the Senate, when he stoutly opposed President Roosevelt's Supreme Court reorganization plan, he earned himself a place on the administration's purge list in the next campaign. However, he won the nomination and the election.

In the years that followed, Senator Gillette was prominent among midwestern isolationists, voting against lend-lease and against extending selective service. When the Neutrality Act was proposed as an aid to England and France, he was also in opposition.

In the early 1940's, however, he completely changed his viewpoint and forthrightly proclaimed it. He introduced a resolution that supported the principles of the Atlantic Charter and was among those urging the negotiation of "a post-war peace charter."

Subsequently, he was named to the bipartisan Senate panel that worked with the State Department in drafting the United Nations Charter.

He was also one of those responsible, in 1943, for the formation of the War Refugee Board and became a compassionate advocate for saving the Jewish people of Europe who had survived the persecution of the Nazis.

In 1944, Senator Gillette strongly opposed President Roosevelt's bid for a fourth term. He had opposed the third term in 1940, but this time he felt it so strongly that he withdrew as a delegate to the Democratic National Convention.

Following his defeat for reelection in 1944 by Bourke Hickenlooper, Senator Gillette was offered a Federal judgeship by President Truman. He chose, instead, the presidency of the American League for a Free Palestine, a group proposing the formation of a democratic Jewish-Arab government for Palestine.

In 1948, he again won election to the Senate. As a member of a Senate Elections Subcommittee, he was a strong influence in restraining the witchhunting activities of the late Senator Joseph R. McCarthy.

After his defeat by Tom Martin in 1954, Senator Gillette served a few years as counsel for committees of the Senate; then in 1961, returned to his Cherokee farm where he remained until his final illness.

Whether dealing with a local problem of the folks back home or a matter of national significance, Guy Gillette was equally conscientious. In the light of present-day concern about the first amendment and the need for declassifying public records that no longer endanger national security, an episode in Senator Gillette's life gives an interesting insight into his attitude on such matters.

Mr. Drexel A. Sprecher, of Bethesda, Md., who was formerly Deputy Chief Counsel and Director of Publications, Office of the U.S. Chief of Counsel for War Crimes, recently wrote me as follows:

> The recent death of Senator Guy Gillette of Iowa brings to mind a historical incident in which you will be interested both as a Senator from Iowa and as a member of the Armed Services Committee of the Senate.
>
> In 1950 and 1951 the then War Crimes Division, Office of the Judge Advocate General, Department of the Army, was proceeding with the editing and publishing of the principal materials from the twelve war crimes trials held in Nuremberg, Germany between 1946 and 1949 before American Military Tribunals.
>
> The records of these trials, and particularly the contemporaneous documents placed in evidence, disclosed many dimensions of the internal workings of Germany during the period of the Nazi dictatorship which were not disclosed, or only partially disclosed, during the earlier trial before the first International Military Tribunal at Nuremberg.
>
> Suddenly, during 1950, the Army was placed under heavy pressures to discontinue or curtail this publications project. Principal reasons then cited were those of financial economy and the supposed virtue of downplaying or even forgetting some of the involvements and actions which occurred in Germany under Hitler.
>
> When this situation was called to the attention of Senator Guy Gillette, he immediately made pertinent inquiries and then actively intervened by a variety of communications to persuade the Pentagon and members of Congress that the Army should publish all of the planned 15 volumes. His efforts had a telling effect, and eventually the Government Printing Office did publish the 15 volumes ("Trials of War Criminals before the Nuremberg Military Tribunals").
>
> These volumes contain over 20,000 pages of now readily available history. Both historians and thoughtful citizens owe Senator Gillette a debt because he would not allow this significant record to remain inaccessible to students of history and to the general public.

I am sure that those colleagues who served with Senator Gillette remember him well as a powerful orator who spoke with conviction and generally without benefit of manuscript or notes. He was a down-to-earth person with a homespun sense of humor that enabled him

to accept political defeat philosophically as well as victory.

In Iowa, a predominantly Republican State since the Civil War, he was a powerful and effective campaigner. This was primarily because even those constituents who disagreed with him respected his integrity, his wisdom, and his consistent willingness to take a firm stand on politically sensitive issues.

As a member of the Senate Foreign Relations Committee, Senator Gillette worked closely with Cordell Hull and other prominent leaders of both parties. It is interesting to note that one of his intimate friends in Washington was the distinguished present minority leader of the Senate, Senator SCOTT.

The Cherokee Daily Times recalls:

In his later years he was active locally as a member of the Chamber of Commerce and Rotary Club, as Chairman of the Cherokee County Red Cross for three years, as member of the Cherokee Library Board and as a member of the Chamber's industrial committee. He also served as a director of the Cherokee State Bank.

In other words, retirement from the Senate and passing the landmark of 75 in no way diminished the man from Cherokee's zest for life, love of people, and commitment to public service.

In 1964, as Governor, I had the privilege of attending a community banquet in Guy Gillette's honor, one of the most memorable experiences of my years in public office.

As the Cherokee Daily Times recounts it:

Tributes came from President Lyndon Johnson, ex-President Truman, Senator Margaret Chase Smith and Senator Henry Cabot Lodge.

The following year, Gillette was presented with a scroll of honor by the United Nations Association of Iowa.

In 1966, at the age of 87, Senator Gillette suffered a stroke and was hospitalized.

Now that strong heart is stilled, but the memory of this great American from Iowa's western slope who was, in appearance, character and comportment, the prototype of everyone's image of a great Senator will live on through the years.

Mr. President, the distinguished former Senator from Oregon, Mr. Wayne Morse, has written an eloquent personal tribute to the late Guy Gillette which I would like to read at this time:

Senator Guy Gillette, a dedicated public servant of the people of Iowa, was no slave to party regularity. Always a member of the Democratic Party, he often opposed Democratic Party legislative programs which he believed were not in the public interest. He survived an attempt to purge him from the Senate, after his vigorous opposition to President Roosevelt's proposal to pack the Supreme Court.

Although basically a New Dealer in political philosophy, Guy Gillette voted with a minority of Democrats in Congress in opposition to a few New Deal proposals, but always worked to improve them once they became law.

For some years prior to World War II he was more isolationist than internationalist, but Germany's international outlawry convinced him that his country could not live unto itself alone. He backed our entrance into the war, and offered the Gillette Resolution supporting the principles of the Atlantic Charter as advocated by President Roosevelt. Guy Gillette was one of the Senators selected to work with the State Department to draft the United Nations Charter.

Perhaps his most outstanding contributions in domestic legislation were his labors in behalf of farmers, and his never-failing defense of civil and human rights. As chairman of the Gillette sub-committee, he was among the first in the Senate to challenge the Senatorial misconduct of Joe McCarthy.

Guy Gillette was courageous; he was intelligent; he was a kindly, gentle man devoted to the task of making the Federal Government responsive to the needs of the people. The history of the House of Representatives, and of the Senate, is the stronger because of the service of Guy Gillette.

I would like to conclude my remarks with a beautiful message I have just received from a distinguished journalist and public servant, Tristram Coffin:

I knew Senator Gillette when I was a working reporter on Capitol Hill, and he was one of my very favorite people—a man gentle and wise, completely honest and educated in the best sense. He understood America and its people and had faith in them. Without knowing it, he gave a great many people strength by his calm good humor and faith in democracy.

Mr. HARRY F. BYRD, JR. Mr. President, Senator Gillette left the Senate quite a while before I became a Member of the Senate.

I remember him quite well, however, I used to come to the Senate in those days when he served here. I remember him as a tall, very striking Senator. I remember him as a Senator of great courage.

I remember his fight against the court-packing plan in 1937 and 1938.

I remember the effort to purge Senator Gillette from the Senate undertaken by the President of the United States; a purge, incidentally, that failed.

I remember him as a very close and dear friend of my father. They served together. My father and Senator Gillette served together for some 14 to 16 years.

I remember that his hometown was Cherokee.

I remember that Mrs. Gillette's name was Rose.

Through the 30 some years that have elapsed since Senator Gillette became a Member of the Senate, I remember him as one of the finest Members to serve in this body.

I am pleased to join today with the two distinguished Senators from Iowa in saying a few words about a splendid outstanding Senator.

Mr. HUGHES. Mr. President, the distinguished Senator from West Virginia (Mr. RANDOLPH) is out of the city today. As many of the Members of this body know, Senator RANDOLPH is an old friend and colleague of Senator Gillette, and he asked me to place his tribute in the RECORD.

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

STATEMENT BY SENATOR RANDOLPH

The significance of a man's life often emerges in clearer and more compelling perspective in the aftermath of his death, in the effect which that life and death are seen to have on the lives of others. It is extremely gratifying to that individual if, after retiring from the public arena, he is granted added years of leisure to reflect and review his role in the great scheme of things.

So it was with Senator Guy Gillette of Cherokee, Iowa, whose death on March 3 saddened all of us who knew him as a great Senator and as a great American.

Guy Gillette and I both entered the House of Representatives in the 73d Congress, in 1932. We served together in the House until his election to the Senate in 1936. We remained friends during his illustrious career as Senator and in the years after.

He stood tall among the Senators of his time—noble, dignified, modest, gracious, handsome, white haired. No Senator took his constitutional duties more seriously, yet he could look upon himself with a delightfully detached sense of humor.

Some time after he had been retired from the Senate, he was approached by representatives of Otto Preminger, the Hollywood producer, about a part in the film version of "Advise and Consent." His comment on this conversation was as follows:

"When they phoned to me from Washington about a "spear-carrying" part in the mob scene in the filming of Advise and Consent, they told me it would be just a small part and that there would be little or nothing to learn for a speaking part. That it was probably that all I would have to say would be "aye" or "no" of certain roll calls.

"I told them there was no harder job than that. That after twenty years' service in the Congress, I very well knew that to know when to say "aye" or "no" on roll calls was what most Senators, including me, had never thoroughly learned. And it would be a privilege to have someone tell me."

While the history of our times will recall Guy Gillette's great contributions to our Nation's foreign policy, especially his role as a member of the Foreign Relations Committee in the development of the concept of the United Nations, he was never so preoccupied with world-shaking public questions as to neglect the fundamental interests and needs of his fellow citizens at home.

I recall vividly that in 1944 a presidential directive had been issued canceling the plans for construction of 28 civilian airports in 17 States on the ground that critical materials were needed for the war effort.

Four of those airports were to be in my home State of West Virginia, at Martinsburg, Parkersburg, Wheeling, and Wiley Ford. The people in those communities had already begun preparations. One community had moved a church out of the way and razed a schoolhouse. Another had spent $20,000, a great deal of money in those days, on its share of the cost of building its airport. All this was in jeopardy.

We founded a special committee of House and Senate Members to seek redress at the White House.

When I went down the roster of all the 96 Senators looking for one who could help us have the maximum impact upon the President, my selection was Guy Gillette, of Iowa, then a towering figure in this body. I urged him to head our delegation to the White House. He accepted immediately.

We called on the President in his upstairs study at 8:30 in the evening. He received us before a crackling fireplace and asked us to present our case.

Following Senator Gillette's cogent introduction, each of us presented our arguments for continuing the construction of these 28 civilian airports. President Roosevelt listened attentively throughout the 18 or 20 minutes we counselled with him. He did not interrupt and he did not ask any questions. At the end, he said, in effect:

"Gentlemen you have made your case. The order will be reversed tomorrow morning."

It is to that intervention, headed by Guy Gillette, that 28 cities in this country, four of them in West Virginia, owe the fact that they began to benefit from civilian air service even before World War II ended.

His indomitable will and his unquenchable

spirit during years of illness kept him not only alive but ever keenly interested in our country's affairs. One remarkable achievement of this grand old man is this: At the age of 87, his writing hand paralyzed, he taught himself to write with the other hand. He maintained regular correspondence with friends throughout Iowa and the Nation and advised Iowans in Democratic politics on how best to proceed. May his memory burn on warm and bright.

I am privileged to join with his legion of friends and admirers in marking the passing of Guy Gillette, whose presence on this earth has improved it, and whose service on behalf of his fellow Iowans, his fellow Americans, and of all mankind will be written large in the annals of history.

Mr. HUGHES. Mr. President, my distinguished colleague from Iowa (Mr. CLARK) now wishes some time to eulogize Senator Gillette and I yield to him as much time as he desires.

Mr. CLARK. Mr. President, we are all here this afternoon to honor the memory of Guy Gillette.

He died last week in the same town where he was born 94 years ago—Cherokee, Iowa. He spent so many of those years in the service of his State and his country—as a farmer, an attorney, a veteran, a Member of the U.S. House of Representatives and, finally, a Member of the U.S. Senate. For all but 4 of the years between 1933 and 1955, he represented the people of Iowa—first as a Congressman from what was the 9th Congressional District and then as a Senator.

There are others here today, like my distinguished colleague from Vermont, Senator AIKEN, who served with him and knew him better. They will best be able to describe Senator Gillette and what he did in the Senate, but I can speak to what he stood for all of those years. When I was growing up in Iowa, he represented the best in public officials and public service: integrity, tenacity, independence, courage. I remember him for those qualities.

He was a good Democrat, but he was not blinded by party loyalty. He opposed the National Recovery Administration program and President Roosevelt's proposal to "pack" the Supreme Court because he thought neither was in the best interests of the country. This earned him a place on President Roosevelt's so-called "purge list" in 1938. Despite that, he was reelected to the Senate.

Guy Gillette will be remembered for his vigorous and early support of the United Nations. In 1943, he introduced a resolution supporting the principles of the Atlantic Charter and recommending that the President negotiate a "postwar peace charter." That resolution led to his participation in the drafting of what would become the United Nations Charter.

In so many ways, he was ahead of his time. He fought racial prejudice, campaigned for election reform, and was a leader in efforts to create a War Refugee Board. He was particularly concerned about the plight of the European Jewish community after the war.

Like few others, Senator Gillette foresaw the tragedy of Southeast Asia. On April 5, 1954, not quite 20 years ago, he urged the United Nations to take up the Indochina question. He told the Senate:

> This is a time for plain speaking, and for a frank, honest, and earnest search for the best possible course for America to follow. Even though not a single American may have fired a shot, or been fired on, in the war in Indochina, America is deeply, dangerously, and perhaps inextricably involved in this area.

And 2 weeks later, Senator Gillette repeated the same message:

> If the war in Indochina at one time did not constitute a threat to international peace and security, that time has long since passed. The war in Indochina has become the most critical threat to international peace and security now facing the nations of the world.

It was to remain that way for almost 20 years. Senator Gillette had the good fortune to live long enough to hear how peace, however tentative and fragile, had come to that part of the world which he had seen troubled by war for so many years.

His life was long, and it was full. Wherever he was in public life, he left his mark. Guy Gillette was a man of the soil, a man of the law, a man of common sense and common decency. It is an honor to hold his old seat in the U.S. Senate.

His passing is a deep loss—for his family, for his friends and neighbors in Cherokee, for Iowa, and for the country. He will be missed.

Mr. HUGHES. Mr. President, it was in 1957 that I first made up my mind to seek public office in Iowa. One of the first individuals I sought out to counsel with was the great Senator from Northwest Iowa who lived 28 miles from my home. I wanted him to advise and counsel me on what I should do. At that time I had just changed my registration from the Republican Party to the Democratic Party and found myself in a sort of dilemma—disliked and detested by the local Republicans around my part of the State, and sort of unwanted by the young Democrats I had decided to join.

But in the midst of this dilemma, former Congressman and former Senator Guy Gillette made me feel very welcome. He discussed with me the great philosophy of his party, the trials and tribulations of public office, and agreed to endorse my campaign for the very first office that I ever sought. I had not sought him out for that purpose but he volunteered to attempt to try and break the ice for a relatively young man seeking public office for the very first time. He endorsed that campaign, and those that followed over the course of the years up to the time he was immobilized by a stroke.

He participated in dinners and functions all over the State of Iowa. He was sought out for advice and counsel by every Democratic candidate for every office, regardless of whether it was Secretary of Agriculture, the State legislature, for the Senate, or for Governor—whatever it might be. He was our friend. He spoke for me at fund raising dinners— not just the important ones at the State level, but sometimes at the precinct level, to help raise funds for the Democratic Party to continue the political processes. He truly valued the party system in America.

But, more than that, he valued the individual conscience of every man, woman, and child, the dignity of all the citizens of our country, as well as respect for all the citizens of the world.

It would be difficult for me to express my feelings when I first visited Guy Gillette, which was in 1968. He was immobilized by a stroke. He was in bed, using exercise equipment, but unable to get out of bed, with a bright gleam in his eye reflecting that his brilliant mind was still functioning completely. At that time, I was deeply impressed that here was a man, even though in his late 80's, who was still contributing something of value, from a bed he knew he would never rise from again, still showing his affection for his State and Nation.

Since that time, as long as he was able, we exchanged occasional correspondence, although the last few times he did so feebly, it was irregular and not very precise. He had reached the point where he was ready to leave this life but he accepted willingly the fact that his course had run. He looked with the divine hope that we all share for an eternity in which he would find that better peace that most of us seek here on this earth. But he never saw the day when he gave up with his mind, his voice, and his great energy to try to make a contribution to the betterment of the human race.

It was with a great deal of respect, love, and admiration over the years in my public service that in the back of my memory. I always thought of this man who, though many times I disagreed with him, saw the light. I was the first Democratic Senator from my State to come into this body since his last defeat in a public election, and I knew that I had to fill a large pair of shoes when I came to this body.

I was reminded by one of those who worked with Senator Gillette that Senator Gillette introduced a resolution in 1939 that brought into being the radio and press gallery in this very body, and that it was one of his battles to see that there was space at the moment of what was happening and being said here. I think it is a tribute, again, to a great Senator, a great man, but more important, a decent human being, and indicates the value and esteem in which he is held by all who knew him in public and private life.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative cerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I wish to join my colleagues in eulogizing our late, departed colleague, the former Senator from Iowa, Guy Gillette.

I had the opportunity to serve with him for a few years when I first came to the Senate, and I found him to be a man of outstanding integrity and understand-

ing, a man who made many contributions to the welfare of his State and to the Nation as a whole.

At this time, I would like to read to the Senate a statement I have just received by another former colleague, Senator Burton K. Wheeler of Montana, relative to his relationship with Senator Guy Gillette:

Senator Guy M. Gillette was one of the Progressives of the Senate. In the tradition of LaFollette, Norris, Borah and Walsh of Montana, he sought social justice and the protection of farmers and laborers against exploitation. To this end he supported the reforms of President Roosevelt but recognized that the little man looked to an independent Supreme Court to protect his civil rights. He therefore opposed Roosevelt's Court packing plan.

He was a handsome man with a commanding presence, but shunned the conceit of either. He was gentle, considerate and given to careful deliberation. While sometimes criticized for being slow to make up his mind, once his decision was made, he had the courage and integrity to adhere to his judgment no matter what the pressure or temptation. His wisdom and fortitude made him one of the most respected members of the Senate. Few surpassed him in ability and none possessed higher principles. He served his State of Iowa and the nation faithfully and with great competence.

BURTON K. WHEELER.

Mr. President, I join Senator Wheeler in what he has said about Senator Gillette, and I wish to add to Senator Wheeler's reference: "In the tradition of LaFollette, Norris, Borah, and Walsh of Montana, he sought social justice and the protection of farmers and laborers against exploitation." To that list of outstanding Senators should be added the name of Senator Burton K. Wheeler.

I am delighted at this time to read this letter from a distinguished former colleague of ours in this body, a man who in his own right made a splendid reputation, a man who was fair, a man who had ability, and a man who possessed high principles.

Mr. YOUNG. Mr. President, March 3 marked the passing of Senator Guy M. Gillette—one who had made a great contribution to his State and Nation as a Member of this body.

Guy Gillette was an able, well respected Senator—one who I had the privilege of serving with during his last years in the Senate. He was one who had a very special interest in agriculture and he truly was a great and powerful friend of farm causes.

It was my privilege to serve as one of five Senate Members on a Senate Agriculture Subcommittee of which Senator Gillette was the chairman. The other members of this special subcommittee were the late Senator Scott W. Lucas of Illinois, the late Senator Spessard Holland of Florida, Senator GEORGE D. AIKEN of Vermont, and myself. My friend Senator AIKEN and I are the only two members of that committee left.

This special committee dealt with the utilization of farm crops and was appointed in April of 1949. It was typical of Senator Gillette's interest in agriculture. The purpose of this subcommittee was to find new uses for agricultural surpluses, such as converting surpluses into rubber and alcohol and many other products. It was an idea that deserved much more attention and consideration than it was given.

Mr. President, I will always have pleasant memories of serving with Senator Guy Gillette—a wonderful friend and a great, great Senator. I extend my deepest sympathy to the family.

Mr. ERVIN. Mr. President, I appreciate the opportunity to say something about the late Guy Gillette, who was a most distinguished Member of this body.

I became acquainted with him personally after I came to the Senate in June 1954. He was then representing the great State of Iowa in the Senate and, as I recall, was defeated in the election that November.

I had learned to admire Senator Gillette long before I became acquainted with him personally. He was a man who carried his own sovereignty under his own hat. Although he was a good Democrat, he differed on certain issues with President Franklin D. Roosevelt and was one of the selected victims of a presidential purge on that account. The great Democrats of Iowa and the great people of Iowa displayed their fidelity to the independence of mind which Senator Gillette had exhibited, and returned him to the Senate for, I believe, the last term he served.

After Senator Gillette was unsuccessful in his bid to return to the Senate in 1954, he worked for a time as an aide to a subcommittee chaired by Senator Olin Johnston of South Carolina, and during that time I came to know him even better than I had known him while he was serving in the Senate.

On one occasion he told Senator Johnston and myself that he thought there was one defect in the setup of Senate committees, and that was that there was no committee or subcommittee which was charged with the primary duty of studying the encroachment of one branch of the Government upon another. Senator Gillette entertained the opinion that the continuance of our country as the republic it was intended to be depended upon observance of the doctrine of separation of governmental powers among the President, the Congress, and the courts. He suggested to Senator Johnston and myself that there ought to be some committee set up to study the manner in which the doctrine of the separation of powers was being observed or violated.

In consequence of this conversation with Senator Gillette, I had a conversation with the distinguished majority leader, Senator MANSFIELD, and the then distinguished minority leader, Senator Dirksen, in which I pointed out the observations which Senator Gillette had made to me and Senator Johnston on this subject. Both of them thought there was much validity in those suggestions. In consequence, they introduced a resolution to establish a subcommittee of the Senate Committee on the Judiciary to study the way in which the doctrine of the separation of the powers of Government at the Federal level was being observed.

After adoption of the resolution, I became the chairman of such a subcommittee, and this subcommittee for some years has been studying the encroachment of one branch of the Federal Government on the domain assigned by the Constitution to the other branches. As a result of that, we have had a great deal of study done on some subjects which are of primary concern in the Senate at this time. One of those subjects that we have studied in detail is the impoundment issue. Another is the pocket veto issue. Another is the question of what we have come to know as executive privilege. The fact that this subcommittee has made these studies and has amassed a considerable amount of historical and other evidence related to them can be traced to the foresight of former Senator Gillette, who in effect is the intellectual father of this particular subcommittee.

I always found Senator Gillette to be a person of vast ability and complete devotion to the system of government which the Constitution was ordained to establish.

The country is fortunate that he lived to the ripe age of 94 and that during a large portion of those 94 years he served the people of this Nation and the people of Iowa in the office of U.S. Senator where he manifested a high degree of intelligence and complete devotion to fundamental principles and a degree of moral and political courage which is seldom evidenced in the annals of our Nation.

Mr. PASTORE. Mr. President, the clock of memory turns back some 20 years as today the Senate recalls the majestic figure of an old colleague, Guy Gillette, whose oratory was one of the attractions of this Capitol for a score of years as he served in both House and Senate.

Twenty-one Senators who served with Guy Gillette in his final year of 1954 are still serving today. Another Senator had resigned—to became Vice President of the United States and then be back to preside over the Senate—Richard Nixon.

I do not presume on this day of eulogy to add to the biographies of the late Senator—but I will borrow the farewell spoken on December 2, 1954, in the final moments of the final session—spoken by then minority leader, Lyndon Johnson of Texas:

My good and trusted friend, Guy Gillette, has served with us many years. His dignity and his statesmanship—particularly in the realm of foreign affairs—has been a guiding beacon for both Democrats and Republicans. He has served with distinction and integrity and I shall always treasure our personal association. I shall be calling on him for advice and counsel in the years to come no matter where he may be.

Now two great statesmen belong to the ages. They have our praise and our prayers. May they rest in peace.

Mr. HARTKE. Mr. President, with the

passing of Senator Guy M. Gillette, the Nation has lost a great patriot whose long and distinguished public career has brought him a place of respect in the hearts of many Americans.

The distinguished Senator from Iowa began service to his country when he enlisted in the Spanish-American War at the age of 19. He served as a captain in World War I. He went on to become a U.S. Representative in 1932 until 1936 and served as U.S. Senator for 14 years between 1936 and 1955.

He was a longtime advocate of the United Nations. He helped the late Secretary of State Cordell Hull in preparing a tentative draft of the original United Nations Charter while serving as a member of the bipartisan Senate committee.

It is with deep sorrow that the Congress mourns the passing of Senator Gillette.

Mr. HUMPHREY. Mr. President, I share the sorrow of my colleagues at the death of Senator Guy Gillette of Iowa. He was one of the most independent and articulate men ever to serve in the Senate. I had the privilege of serving with him during his second term in the Senate, and I remember that Guy Gillette always spoke his mind, whatever the issue.

As an outspoken Democrat from a Republican State, he did not desert his opinions just to be popular, and partly for this reason, Senator Gillette lost his bid for reelection in 1945. But 3 years later the people of Iowa decided that they wanted their forthright spokesman back in the Senate, and returned him to office.

Guy Gillette would not give in to pressure, whether it came from the left or the right. He opposed President Roosevelt when he disagreed with him, most notably on the President's bill to increase the membership of the Supreme Court.

Nor did Senator Gillette acquiesce to the injustices and totalitarian aspects of the McCarthy era. He questioned Senator McCarthy's use of contributions to his crusade, was attacked in return, and was eventually vindicated by the Select Senate Committee which called for censure of Senator McCarthy.

America's farmers remember Senator Gillette as their friend. We remember him as the author of early legislation to fight the exploitation of racial prejudice in election campaigns.

Many of us remember him as a man who began his public life as an isolationist, but who ended up helping the State Department draft the Charter for the United Nations.

Certainly this body was honored to have a Senator of Guy Gillette's independence, compassion, and patriotism.

Mr. FULBRIGHT. Mr. President, the death of Senator Guy Gillette of Iowa brought to mind his long service on the Committee on Foreign Relations. Prone as we are in this body to think in terms of seniority, I had labored under the impression that long ago when I became a member of the Committee on Foreign Relations—in 1949, to be precise—that Senator Gillette was junior to me in service on the committee. For two Congresses—from 1951 to 1955—I was senior to Guy Gillette in our service on that committee.

The fact was, however, that Guy Gillette first became a member of the Committee on Foreign Relations in 1939 and served on the committee throughout the war—until 1945.

When Senator Gillette returned to the committee in 1949, he was one of its most active members, participating in the committee's endeavors to strengthen the United Nations Charter.

Senator Gillette was ever the guardian of the Constitution. He was one of those who was early in consciousness of the dangers to our system implicit in what is occasionally a tendency toward slackness in Senate procedures.

Some Members will recall that in 1952 and 1953 the Senate had gotten into the habit of approving treaties in a most proforma manner. Despite the fact that action on treaties is one of the most important functions given to the Senate by the Constitution, during the year 1952 the Senate acted upon only five out of 25 treaties by a rollcall vote, the other 20 having been approved by a voice vote.

When Senator Gillette in early 1952 found that the Greek-Turkish protocol to the North Atlantic Treaty had been approved with only six Senators on the floor, he demanded its reconsideration. Fortunately, the protocol had not yet been sent to the President by the unanimous-consent procedure which we now so often follow in order to avoid the requirement of the Senate rules that motions to reconsider are in order for 2 days of actual session after the vote. That protocol was recalled and passed by a rollcall vote.

As a result of the position taken by Senator Gillette and others, on July 20, 1953, the acting majority leader, Senator Knowland, announced that the Majority Policy Committee, as a matter of operating procedure thereafter, would insist that on treaties as well as constitutional amendments, there would be a quorum call before any vote, and a request for a yea-and-nay vote.

This is a small point in history, but significant in that it was a slight beginning in the preservation of the constitutional role of the Senate which I, for one, find constantly threatened by increasing assertion of power by the Executive, and by a tendency toward passiveness on our part.

Senator Gillette was a fine gentleman, as well as a great Senator. While he has not been among us for the many years since his retirement, he was one of those who contributed to the strength of our constitutional system.

Mr. SPARKMAN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by our former colleague Senator Lister Hill.

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

STATEMENT BY FORMER SENATOR LISTER HILL

Guy Gillette was my friend and colleague. He served in the House of Representatives and in the Senate during a total of 18 years. He lived for almost a century and left his mark on many areas of our country's life—in foreign relations, in agriculture, in consumer protection, and most importantly in defense of the constitutional separation of powers among the legislative, the executive, and the judiciary.

I served with him on the Foreign Relations Committee.

He was an independent-minded Democrat. He strongly supported the New Deal, but he also strongly opposed President Roosevelt's effort to "pack" the Supreme Court. He was among the first to urge the creation of what was to become the United Nations. He was truly a stateman and the Nation is the better for his having lived and worked among us. It is an honor to join with his other friends and colleagues in this tribute to his memory.

Mr. HUGHES. Mr. President, the Senator from Iowa is not aware of any further comments to be made for the RECORD today.

ORDER TO KEEP RECORD OPEN FOR EULOGIES ON THE LATE SENATOR GUY GILLETTE

Mr. HUGHES. Mr. President, the Senator from Iowa is unaware of any other Members of this body who intend to place into the record today eulogies in behalf of the late Senator from Iowa, Guy Gillette, but I ask unanimous consent that the record be kept open for 2 weeks to receive such eulogies as Members of the Senate may care to submit.

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

PRINTING EULOGIES TO THE LATE SENATOR GUY GILLETTE AS SENATE DOCUMENT

Mr. HUGHES. Mr. President, at the end of the 2-week period of time, I ask unanimous consent that the eulogies presented and given here today be incorporated into a Senate document and printed as such.

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

QUORUM CALL

Mr. HUGHES. 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. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

WITHDRAWAL AND RELEASE OF CERTAIN EXECUTIVE SESSION TESTIMONY AND OTHER PAPERS

Mr. ERVIN. Mr. President, the resolution which I am offering is to permit the withdrawal and release to the U.S. Department of Justice of certain documents and executive session testimony submitted before the Senate Permanent Subcommittee on Investigations of the Committee on Government Opera-

tions. This resolution is in response to a request on behalf of the U.S. Department of Justice in connection with its prosecution of a criminal trial now pending within the U.S. District Court for the Southern District of Florida.

The criminal case is a direct result of an investigation made by the subcommittee during the period of 1970–71. This inquiry examined the theft and conversion of stolen securities throughout the United States.

Mr. President, I ask unanimous consent that the resolution be immediately considered and agreed to.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina?

There being no objection, the Senate proceeded to the consideration of the resolution (S. Res. 81), which was agreed to.

The preamble was agreed to.

The resolution as agreed to, with its preamble, reads as follows:

S. RES. 81

Resolution to permit withdrawal and release of certain executive session testimony and other papers

Whereas the case of *United States of America* v. *Irving Devine, et al.*, Criminal Docket No. 72–733 is pending within the United States District Court for the Southern District of Florida; and

Whereas the Senate Permanent Subcommittee on Investigations has certain papers and transcriptions of executive session testimony which had been secured by members of said Subcommittee during the course of their duties as employees of the Senate; and

Whereas by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate no memorial or other paper presented to the Senate shall be withdrawn from its possession except by Resolution of the Senate; and

Whereas a representative of the Department of Justice has requested the release of certain papers and transcriptions of executive session testimony of Michael Raymond, a witness before said Subcommittee; Therefore be it

Resolved, That the Permanent Subcommittee on Investigations may release the documents, memorials, papers and transcriptions relating to the public and executive session testimony of Michael Raymond to the Department of Justice for the use thereof in the above-stated case.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I sugegst 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.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed a joint resolution (H.J. Res. 334) to provide for the designation of the second full calendar week in March 1973 as "National Employ the Older Worker Week," in which it requested the concurrence of the Senate.

NATIONAL EMPLOY THE OLDER WORKER WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Joint Resolution 334.

The PRESIDING OFFICER (Mr. HELMS) laid before the Senate House Joint Resolution 334, a joint resolution to provide for the designation of the second full calendar week in March 1973 as "National Employ the Older Worker Week," which was read twice by its title.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the joint resolution.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by my distinguished colleague from West Virginia (Mr. RANDOLPH), together with an insertion which he has also asked to have printed in the RECORD.

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

SUPPORT FOR NATIONAL EMPLOY THE OLDER WORKER WEEK

I wholeheartedly support the resolution to authorize the President to designate the second full week in March as "National Employ the Older Worker Week."

As the Senate sponsor of this proposal I am especially gratified that this measure is cosponsored by every Member of the Senate Committee on Aging, as well as other Members of the Senate. Mr. President, I ask unanimous consent that the cosponsors of S.J. Res. 49 be printed in the Record at the close of my remarks.

(See exhibit 1.)

The major purpose of this resolution is to build upon the solid achievements and continuing leadership of the American Legion in encouraging public and private employers to hire older workers.

Since 1959 the Legion has designated a particular week during each year to promote the employment of aged and aging Americans.

At this time national attention is directed at the advantages of hiring middle-aged and older individuals. Additionally, awards are presented to employers who demonstrate outstanding leadership in employing mature workers.

These efforts, I strongly believe, have proved to be enormously successful in combating some of the false stereotypes about the effectiveness of older workers.

Quite clearly, educational efforts are essential to help inform the public about the many attributes and true capabilities of aged and aging Americans. As a group, mature workers have many excellent qualities to be top notch employees. They have experience, stability, and dependability to perform well on the job.

A recent study by the New York Commissioner on Human Rights provides further compelling evidence about the effective performance of older workers. The Commission's survey of more than 100,000 State employees revealed that workers over age 65 performed their jobs "about equal to and sometimes noticeably better than younger workers."

Another advantage of this resolution is that it can provide greater national attention to create a more favorable climate for the employment of middle-aged and older workers.

Before concluding my remarks, Mr. President, I wish to commend the American Legion for its leadership in encouraging the hiring of older Americans.

For these reasons, I reaffirm my strong support for the enactment of this measure.

EXHIBIT 1

COSPONSORS OF SENATE JOINT RESOLUTION 49—NATIONAL EMPLOY THE OLDER WORKER WEEK

Senator Beall, Senator Bible, Senator Brooke, Senator Chiles, Senator Church, Senator Clark, Senator Cranston, Senator Domenici, Senator Eagleton, Senator Fong, Senator Gurney, Senator Hansen, Senator Hartke, Senator Kennedy, Senator Mondale, Senator Moss, Senator Muskie, Senator Pell, Senator Percy, Senator Saxbe, Senator Stafford, Senator Tunney, and Senator Williams.

Mr. CHURCH. Mr. President, I strongly support the passage of House Joint Resolution 334, which would authorize the President to designate the second full week in March as "National Employ the Older Worker Week."

An identical resolution—Senate Joint Resolution 49—has been sponsored by every member of the Senate Committee on Aging, of which I am chairman. This proposal, which was introduced on February 2 by Senator RANDOLPH—the chairman of the Committee on Aging's Subcommittee on Employment and Retirement Incomes—had been ordered reported earlier by the Federal Charters, Holidays and Celebration Subcommittee of the Senate Judiciary Committee. However, no final action could be taken by the full committee, because of the hearings on the nomination of Patrick Gray to be the Director of the FBI.

For these reasons, the House has acted first on this resolution to permit the Senate to call up this measure directly from the desk and to act on it now.

At the outset, I wish to thank the chairman of the Senate Judiciary Committee, Mr. EASTLAND; the majority leader, Mr. MANSFIELD; the chairman of the Federal Charters, Holidays and Celebrations Subcommittee, Mr. HRUSKA; and the majority whip, Mr. BYRD, for their splendid cooperation in permitting prompt action on this resolution.

Today many false stereotypes hinder the employment of middle-aged and older workers. These attitudes, unfortunately, are leading to a greater and potentially dangerous dependency ratio of nonworkers to workers.

During the past year alone nearly 800,000 persons aged 45 or older withdrew from the labor force, all too often involuntarily. On the other hand, nearly 2 million additional jobs were created for persons under age 45 during this same period.

No nation can ever hope to achieve its full potential if many of its experienced and skillful citizens are not allowed to participate. Much more can be gained, I strongly believe, by developing national policies which maximize job opportunities for mature workers.

Several studies have clearly demonstrated that it is in the employer's interest to employ older workers.

They are less likely to be absent from work for trivial reasons.

Their productivity compares very favorably with younger workers. In many cases, their work performance is noticeably better.

Mr. President, I also want to pay special tribute to the American Legion for its leadership efforts in promoting employment of older workers. During the past 14 years—since 1959—the Legion has been in the forefront in encouraging the employment of older workers.

And the primary purpose of this resolution is to build upon the American Legion's earlier successful efforts in this meritorious endeavor.

For these reasons I urge prompt approval of this resolution by the Congress and the White House.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 334) was ordered to a third reading, read the third time, and passed.

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 noon tomorrow.

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 on tomorrow, after the two leaders have been recognized under the standing order, there be a period for the transaction of routine morning business not to exceed 30 minutes with a limitation on statements therein of 3 minutes each.

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

ORDER FOR CONSIDERATION OF PUBLIC HEALTH SERVICE ACT EXTENSION OF 1973 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, at the conclusion of the routine morning business, the Senate proceed to the consideration of Calendar No. 63, S. 1136, a bill to extend the expiring authorities in the Public Health Service Act and the Community Mental Health Centers Act.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—I do want to call attention to the fact that this particular bill was not referred to the appropriate legislative committee for consideration and that there is no report to accompany the bill.

The bill has been placed on the Calendar. It is my understanding that it is a bill that was considered to the last Congress. Of course, this is a procedure that is resorted to from time to time. However, I would note that it is not the ordinary, regular way to consider legislation, particularly important and expensive legislation. And while it would serve no purpose to object, because the leadership is free to call it up in any event, I do want to be sure that our colleagues are on notice that this legislation will be taken up and that there is no report available and that it will involve some additional staff effort for Senators to be familiar with this legislation and to intelligently be able to consider it tomorrow.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock noon tomorrow.

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 routine morning business, the Senate will take up S. 1136, a bill to extend the expiring authority of the Public Health Services Act and the Community Mental Health Centers Act. I would anticipate one or more 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 noon tomorrow.

The motion was agreed to, and at 2:01 p.m. the Senate adjourned until tomorrow, Tuesday, March 13, 1973, at 12 meridian.

NOMINATIONS

Executive nominations received by the Senate March 12, 1973:

CIVIL AERONAUTICS BOARD

Lee R. West, of Oklahoma, to be a member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1978, vice Robert T. Murphy, term expired.

DEPARTMENT OF LABOR

John H. Stender, of Washington, to be an Assistant Secretary of Labor, vice George C. Guenther, resigned.

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of chapter 837, title 10, United States Code, as amended, and Public Law 92–129.

Lieutenant colonel to colonel

LINE OF THE AIR FORCE

Bays, Kenneth J., xxx-xx-xxxx
France, John L., xxx-xx-xxxx
Greene, Cecil W., xxx-xx-xxxx
Hutchinson, William F., xxx-xx-xxxx
Kelley, Charles D., xxx-xx-xxxx
Mahi, George Jr., xxx-xx-xxxx
Skinner, Charles R., xxx-xx-xxxx
Soscia, Louis J., xxx-xx-xxxx
Straub, Daniel L., xxx-xx-xxxx
Troutman, Ray K., xxx-xx-xxxx
Walsh, Harold V., Jr., xxx-xx-xxxx

CHAPLAIN CORPS

Neumann, Thomas J., xxx-xx-xxxx
Thielen, Thoralf T., xxx-xx-xxxx

MEDICAL CORPS

Brown, Dewees H., xxx-xx-xxxx
Po, Robert, xxx-xx-xxxx
Whitehead, Leslie E., xxx-xx-xxxx

Major to lieutenant colonel

LINE OF THE AIR FORCE

Adams, Lewis R., xxx-xx-xxxx
Bankston, Charles A., xxx-xx-xxxx
Cantrell, Verlin G., xxx-xx-xxxx
Couch, Jesse M., xxx-xx-xxxx
Duffy, Geroge H., xxx-xx-xxxx
Echevarria, Ramon L. xxx-xx-xxxx
Forsyth, James L., xxx-xx-xxxx
Frank, Vernon E., xxx-xx-xxxx
Fucchi, Rinaldo, xxx-xx-xxxx
Gorrell, Arnold D., xxx-xx-xxxx
Harris, Teddy L., xxx-xx-xxxx
Higley, Martin F., xxx-xx-xxxx
Hill, James R. M., xxx-xx-xxxx
Hiller, Walter, xxx-xx-xxxx
Huff, Frank F., xxx-xx-xxxx
Hunter, Neil W., xxx-xx-xxxx
Johnston, Reginald L., xxx-xx-xxxx
Lawrence, Leonard E., xxx-xx-xxxx
Lee, Harold B., xxx-xx-xxxx
Mathews, Richard G., xxx-xx-xxxx
McIlwain, Teddy C., xxx-xx-xxxx
Monkvic, John A., xxx-xx-xxxx
Montgomery, Charley A., Jr., xxx-xx-xxxx
Olsen, Ronald J., xxx-xx-xxxx
Petrelli, Edmond J., xxx-xx-xxxx
Rhodes, Duane L., xxx-xx-xxxx
Rowley, Clarence W., xxx-xx-xxxx
Sabbs, Frederick J., xxx-xx-xxxx
Sigl, Walter J., xxx-xx-xxxx
Smith, Richard M., xxx-xx-xxxx
Steinert, Donald L. F., xxx-xx-xxxx
Thelen, Donald J., xxx-xx-xxxx
Thomas Maxzeller L., Jr., xxx-xx-xxxx
Watson, James W., xxx-xx-xxxx
Wilson, Earthern H., xxx-xx-xxxx

MEDICAL CORPS

Burns, John B., XXXX
Gigax, John H., [redacted]
Ramey, Ralph, Jr., xxx-xx-xxxx
Shapiro, Allen, xxx-xx-xxxx

NURSE CORPS

Graham, Ivra M., xxx-xx-xxxx
Holian, John G., xxx-xx-xxxx
Kopczynski, Helen D., xxx-xx-xxxx
Stephens, Geneva, xxx-xx-xxxx

MEDICAL SERVICE CORPS

Scheihing, Theodore R., xxx-xx-xxxx

VETERINARY CORPS

Hines, Richard J., Jr., xxx-xx-xxxx
Kupper, James L., xxx-xx-xxxx
Parker, Cleveland L., xxx-xx-xxxx

The following officers for appintment in the Reserve of the Air Force, in the grade indicated, Line of the Air Force, under the

provisions of section 593, title 10, United States Code and Public Law 92–129.

To be Colonel

Cady, Daniel C., XXXX

To be Lieutenant Colonel

Ernst, William S., xxx-xx-xxxx.
Kershaw, Hyrum W., xxx-xx-xxxx.
Wason, Robert C., xxx-xx-xxxx.

The following officers for appointment in the Reserve of the Air Force (Medical Corps), in the grade of lieutenant colonel, under the provisions of section 593, title 10, United States Code and Public Law 92–129, with a view to designation as medical officers under the provisions of section 8067, title 10, United States Code.

Allensworth, William B., xxx-xx-xxxx.
Ashby, Richard H., xxx-xx-xxxx.
Eagleton, John E., Jr., xxx-xx-xxxx.
Fettus, George H., III, xxx-xx-xxxx.
Moore, Patrick J., xxx-xx-xxxx.

The following officers for appointment as temporary officers in the U.S. Air Force (Medical Corps), in the grade of lieutenant colonel, under the provisions of section 8444 and 8447, title 10, United States Code and Public Law 92–129, with a view to designations of section 8067, title 10, United States Code.

Sanders, James G., xxx-xx-xxxx.
Via, Bobby M., xxx-xx-xxxx.

IN THE ARMY

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be captain

Baucom, Sara E., xxx-xx-xxxx.
Bishop, Lois E., xxx-xx-xxxx.
McNamara, Sally A., xxx-xx-xxxx.

To be first lieutenant

Fichtner, James M., xxx-xx-xxxx.
Hamper, Sandra L., xxx-xx-xxxx.
Harrison, Judith A., xxx-xx-xxxx.
Hofmann, John R., Jr., xxx-xx-xxxx.
Johnson, Valerie A., xxx-xx-xxxx.
Keeton, Thomas E., xxx-xx-xxxx.
Polner, David T., xxx-xx-xxxx.
Quinn, Rose E., xxx-xx-xxxx.
Rettig, Fannie M., xxx-xx-xxxx.
Rowan, James H., xxx-xx-xxxx.
Stegen, Martha C., xxx-xx-xxxx.
Stepp, Terry A., xxx-xx-xxxx.
Steele, Charles D., xxx-xx-xxxx.
Zimmerman, Carol H., xxx-xx-xxxx.

To be second lieutenant

Archer, Sally E., xxx-xx-xxxx.
Clark, Willa R., xxx-xx-xxxx.
Jelks, David A., xxx-xx-xxxx.
Stalbaum, Harriett P., xxx-xx-xxxx.

The following-named distinguished military students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290:

Abel, Stephen A., xxx-xx-xxxx.
Acree, Nathan E. Jr., xxx-xx-xxxx.
Adams, Richard A., xxx-xx-xxxx.
Adamson, Larry C., xxx-xx-xxxx.
Addison, Gary R., xxx-xx-xxxx.
Addison, Ronald E., xxx-xx-xxxx.
Adee, Daniel S., xxx-xx-xxxx.
Adelson, Maurice B., xxx-xx-xxxx.
Alexander, Robert H., xxx-xx-xxxx.
Allen, Ronald L., xxx-xx-xxxx.
Alston, Sammie A., xxx-xx-xxxx.
Ames, Richard A., xxx-xx-xxxx.
Arbona, Pedro L., xxx-xx-xxxx.
Archual, Michael J., xxx-xx-xxxx.
Aspinall, Laurin J., xxx-xx-xxxx.
Aston, Michael E., xxx-xx-xxxx.
Austin, Steve P., xxx-xx-xxxx.
Azama, Wesley J., xxx-xx-xxxx.
Bacak, Stanley C., xxx-xx-xxxx.
Bailey, Ralph C., xxx-xx-xxxx.
Baker, Charles B., xxx-xx-xxxx.
Balch, John W., xxx-xx-xxxx.
Banker, Gary W., xxx-xx-xxxx.
Bannister, Kimball B., xxx-xx-xxxx.
Barb, John M., xxx-xx-xxxx.
Barr, Dean D., xxx-xx-xxxx.
Barry, Thomas H., xxx-xx-xxxx.
Bartell, Michael A., xxx-xx-xxxx.
Bastone, John J., xxx-xx-xxxx.
Battles, Emmett L., xxx-xx-xxxx.
Batts, Joe R., xxx-xx-xxxx.
Baughn, Carl W., Jr., xxx-xx-xxxx.
Brazemore, Haywood M., xxx-xx-xxxx.
Beach, Harold A., xxx-xx-xxxx.
Beane, Thomas F., xxx-xx-xxxx.
Beard, Walter S., xxx-xx-xxxx.
Beaton, James B., xxx-xx-xxxx.
Beckett, Lewis W., xxx-xx-xxxx.
Beeson, Christoper J., xxx-xx-xxxx.
Bell, David J., xxx-xx-xxxx.
Bennett, Johnie J., xxx-xx-xxxx.
Benoit, Jonathan W., xxx-xx-xxxx.
Bergeron, Robert D., xxx-xx-xxxx.
Bethers, Bruce R., xxx-xx-xxxx.
Betty, Gerald R., xxx-xx-xxxx.
Bielamowicz, Thomas E., xxx-xx-xxxx.
Biggs, John D., xxx-xx-xxxx.
Bird, Graham D., Jr., xxx-xx-xxxx.
Birmingham, Daniel M., xxx-xx-xxxx.
Bisek, Eugene, xxx-xx-xxxx.
Blackwell, Buddy J., xxx-xx-xxxx.
Bledsoe, Michael R., xxx-xx-xxxx.
Blevins, Homer L., xxx-xx-xxxx.
Boehnlein, Bruce F., xxx-xx-xxxx.
Bonfield, James A., xxx-xx-xxxx.
Booher, Dennis A., xxx-xx-xxxx.
Boomers, Robert G., xxx-xx-xxxx.
Boucher, Donald W., xxx-xx-xxxx.
Bowen, James T. S., xxx-xx-xxxx.
Bowen, William F., Jr., xxx-xx-xxxx.
Bowers, Gregory L., xxx-xx-xxxx.
Box, James H., Jr., xxx-xx-xxxx.
Boxler, Gary L., xxx-xx-xxxx.
Boyatt, Michael D., xxx-xx-xxxx.
Boyd, Gregory J., xxx-xx-xxxx.
Braaf, Robert G., xxx-xx-xxxx.
Bradley, David L., xxx-xx-xxxx.
Brangenberg, Gerald A., xxx-xx-xxxx.
Bratcher, Charles D., xxx-xx-xxxx.
Breeden, William L., xxx-xx-xxxx.
Brewer, Paul G., Jr., xxx-xx-xxxx.
Briceland, Patrick J., xxx-xx-xxxx.
Bridge, William D., xxx-xx-xxxx.
Brinker, David A., xxx-xx-xxxx.
Brodeur, Steven P., xxx-xx-xxxx.
Brontoli, Richard F., xxx-xx-xxxx.
Brown, Arvin H., xxx-xx-xxxx.
Brown, Charles R., xxx-xx-xxxx.
Brown, Herbert G., xxx-xx-xxxx.
Brown, Isaac, xxx-xx-xxxx.
Brown, Timothy J., xxx-xx-xxxx.
Brownlee, Daniel P., xxx-xx-xxxx.
Bruns, John G., xxx-xx-xxxx.
Brunson, Kendrick W., xxx-xx-xxxx.
Buehler, David J., xxx-xx-xxxx.
Bulinski, Daniel G., xxx-xx-xxxx.
Burford, David P., xxx-xx-xxxx.
Burgoyne, Lawrence K., xxx-xx-xxxx.
Burke, John N., xxx-xx-xxxx.
Burke, Thomas J., xxx-xx-xxxx.
Burns, Charles, xxx-xx-xxxx.
Burt, Michael C., xxx-xx-xxxx.
Burton, Charles R., xxx-xx-xxxx.
Burton, Richard C., Jr., xxx-xx-xxxx.
Burton, Thomas L., xxx-xx-xxxx.
Butkus, Raymond T., xxx-xx-xxxx.
Byrne, Kenneth M., xxx-xx-xxxx.
Byron, Richard J., xxx-xx-xxxx.
Cady, James H., xxx-xx-xxxx.
Cain, Michael, xxx-xx-xxxx.
Callahan, Michael B., xxx-xx-xxxx.
Camp, Kenneth A., xxx-xx-xxxx.
Campbell, Kevin T., xxx-xx-xxxx.
Campbell, Vincent W., xxx-xx-xxxx.
Cantlon, Scott E., xxx-xx-xxxx.
Cantu, Frank, Jr., xxx-xx-xxxx.
Cardwell, Gerald D., xxx-xx-xxxx.
Carlino, Charles A., xxx-xx-xxxx.
Carlock, Robert C., Jr., xxx-xx-xxxx.
Caron, Dennis P., xxx-xx-xxxx.
Carpenter, Arlin D., xxx-xx-xxxx.
Carr, Steve D., xxx-xx-xxxx.
Carraway, Thomas P., xxx-xx-xxxx.
Carver, Douglas L., xxx-xx-xxxx.
Cass, Steven L., xxx-xx-xxxx.
Cavin, William R., Jr., xxx-xx-xxxx.
Cerone, Joseph D., xxx-xx-xxxx.
Cervantes, Mario A., xxx-xx-xxxx.
Chalkley, James R., xxx-xx-xxxx.
Chandler, Garth K., xxx-xx-xxxx.
Chapman, Stephen W., xxx-xx-xxxx.
Chappelle, Kenneth T., xxx-xx-xxxx.
Chin, Tommy H., xxx-xx-xxxx.
Choate, Kenneth, xxx-xx-xxxx.
Christensen, Dan R., xxx-xx-xxxx.
Christensen, James E., xxx-xx-xxxx.
Ciriaco, John J., xxx-xx-xxxx.
Clark, Alvin W., xxx-xx-xxxx.
Clark, Andre, xxx-xx-xxxx.
Cleland, Ned M., xxx-xx-xxxx.
Cleven, Ray D., xxx-xx-xxxx.
Close, Allen C., xxx-xx-xxxx.
Coe, William C., xxx-xx-xxxx.
Coffee, Carl, xxx-xx-xxxx.
Coffman, Sammy L., xxx-xx-xxxx.
Cole, Charles G., xxx-xx-xxxx.
Conrad, Scott W., xxx-xx-xxxx.
Cooler, Ernest W., III, xxx-xx-xxxx.
Coombs, Willis E., xxx-xx-xxxx.
Coon, Thomas G., xxx-xx-xxxx.
Cooper, Robert W., xxx-xx-xxxx.
Corkern, Murphy W., Jr., xxx-xx-xxxx.
Corley, Harry L., xxx-xx-xxxx.
Cornett, Stanley N., xxx-xx-xxxx.
Coronado, Alexander R., xxx-xx-xxxx.
Cortez, Christopher A., xxx-xx-xxxx.
Cox, Jerel L., xxx-xx-xxxx.
Crabtree, Douglas A., xxx-xx-xxxx.
Crawford, William M., xxx-xx-xxxx.
Cribbs, Wayne R., xxx-xx-xxxx.
Cromwell, Scott L., xxx-xx-xxxx.
Crotty, Robert B., xxx-xx-xxxx.
Crump, Christopher H., xxx-xx-xxxx.
Cude, William B., xxx-xx-xxxx.
Cullen, Michael T., xxx-xx-xxxx.
Cummins, Michael L., xxx-xx-xxxx.
Curry, James A., xxx-xx-xxxx.
Curtis, James B., xxx-xx-xxxx.
Cusack, Timmonthy J., xxx-xx-xxxx.
Dabling, Robert C., xxx-xx-xxxx.
Dady, Patrick S., xxx-xx-xxxx.
Danzie, Bobby E., xxx-xx-xxxx.
David, Carl J., xxx-xx-xxxx.
Daniels, Steven H. E., xxx-xx-xxxx.
Darwin, Charles E., xxx-xx-xxxx.
Daschke, Carl E., xxx-xx-xxxx.
Davenport, Clyde E., xxx-xx-xxxx.
Davis, David P., xxx-xx-xxxx.
Davis, Garry E., xxx-xx-xxxx.
Davis, Gary R., xxx-xx-xxxx.
Dawkins, Reginald, xxx-xx-xxxx.
Dean, Mark K., xxx-xx-xxxx.
Deeter, Louis P., xxx-xx-xxxx.
Delgado, Dwighd D., xxx-xx-xxxx.
Denlinger, Grover R., xxx-xx-xxxx.
Denny, Craig K., xxx-xx-xxxx.
Deramo, Antonio G., xxx-xx-xxxx.
Devera, Herman V., xxx-xx-xxxx.
Dial, Cortez K., xxx-xx-xxxx.
Dibb, Roger A., xxx-xx-xxxx.
Dickens, Larry M., xxx-xx-xxxx.
Dixon, Brain C., xxx-xx-xxxx.
Domaszek, Gerald R., xxx-xx-xxxx.
Downing, Eddie, xxx-xx-xxxx.
Drebus, John R., xxx-xx-xxxx.
Driggers, Robert A. Jr., xxx-xx-xxxx.
Durham, John D., xxx-xx-xxxx.
Eberhard, Chadwick M., xxx-xx-xxxx.
Edwards, James T., xxx-xx-xxxx.
Ehly, William E., xxx-xx-xxxx.
Elliott, Mark M., xxx-xx-xxxx.
Ellis, John W., xxx-xx-xxxx.
Ellis, Steven L., xxx-xx-xxxx.
Epperson, Steven H., xxx-xx-xxxx.
Estes, Stephen N., xxx-xx-xxxx.
Evans, Frederick M., xxx-xx-xxxx.
Evans, Richard L., xxx-xx-xxxx.
Exum, Titus H., xxx-xx-xxxx.
Fadler, Ronald J., xxx-xx-xxxx.
Fairbanks, James W., xxx-xx-xxxx.
Fanning, Reed, B., xxx-xx-xxxx.
Farwell, Jay E., xxx-xx-xxxx.
Fath, Robert D., xxx-xx-xxxx.

Fedora, David F., xxx-xx-xxxx.
Feeney, Christopher D., xxx-xx-xxxx.
Feller, Sidney F., xxx-xx-xxxx.
Felton, Roger L., xxx-xx-xxxx.
Ferguson, Francis G., xxx-xx-xxxx.
Ferguson, Marion M., xxx-xx-xxxx.
Ferschweiler, Keith J., xxx-xx-xxxx.
Fields, James L., xxx-xx-xxxx.
Filling, Robert L., xxx-xx-xxxx.
Fine, Charles W., xxx-xx-xxxx.
Finley, Herman F., Jr., xxx-xx-xxxx.
Fisher, Edward A., xxx-xx-xxxx.
Fisher, Ronald G., xxx-xx-xxxx.
Flavin, Mark J., xxx-xx-xxxx.
Flesher, Robert G., xxx-xx-xxxx.
Forestal, James T., xxx-xx-xxxx.
Fortner, Rex. D., xxx-xx-xxxx.
Foscue, Macon W., xxx-xx-xxxx.
Fowler, Billy W., xxx-xx-xxxx.
Fowler, John C., xxx-xx-xxxx.
Fox, Lynn C., xxx-xx-xxxx.
Frankl, George H., xxx-xx-xxxx.
Franks, Edwin L., xxx-xx-xxxx.
Freeman, Joseph E., xxx-xx-xxxx.
Freeman, Norman E., xxx-xx-xxxx.
Fritz, Gary R., xxx-xx-xxxx.
Frost, Kenneth B., xxx-xx-xxxx.
Fuggiti, Jay A., xxx-xx-xxxx.
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The following-named scholarship students for appointment in the Regular Army of the United States in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2107, 3283, 3284, 3286, 3287, 3288, and 3290:

Abner, Charles, Jr., xxxx
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Pate, Steven H., xxx-xx-xxxx
Patras, Thomas A., xxx-xx-xxxx
Patrick, James H., xxx-xx-xxxx
Paulett, Harold K., xxx-xx-xxxx
Peace, Jerry W., xxx-xx-xxxx
Peacock, Russel W., xxx-xx-xxxx
Pendergrast, John A., xxx-xx-xxxx
Peppers, Jeffrey D., xxx-xx-xxxx
Peralta, David S., xxx-xx-xxxx
Perez, Roberto, xxx-xx-xxxx
Peters, Randall L., xxx-xx-xxxx
Petersen, Ronald F., xxx-xx-xxxx
Philbrook, Thomas V., xxx-xx-xxxx
Phillips, Raymond C., xxx-xx-xxxx
Phillips, Robert C., xxx-xx-xxxx
Phillips, Thompson S., Jr., xxx-xx-xxxx
Pick, Harold M., Jr., xxx-xx-xxxx
Pierce, Benjamin J., xxx-xx-xxxx
Pillsbury, James H., xxx-xx-xxxx
Pinc, Frank C., xxx-xx-xxxx
Pitts, James M. C., xxx-xx-xxxx
Pitts, Joseph Jr., xxx-xx-xxxx
Plater, Donald E., xxx-xx-xxxx
Poe, Carl F., xxx-xx-xxxx
Poff, Laird H., xxx-xx-xxxx
Poumade, Michael L., xxx-xx-xxxx
Prewitt, David S., xxx-xx-xxxx
Price, James F., Jr., xxx-xx-xxxx
Puglisi, John T., xxx-xx-xxxx
Querry, Frederick M., xxx-xx-xxxx
Quinn, Edward T., xxx-xx-xxxx
Quinones, John P., xxx-xx-xxxx
Racinowski, Ronald V., xxx-xx-xxxx
Ramsey, Leroy S., III, xxx-xx-xxxx
Randall, John M., xxx-xx-xxxx
Randby, James E., xxx-xx-xxxx
Rasner, Kenneth E., xxx-xx-xxxx
Rattan, Richard V., xxx-xx-xxxx
Rawls, Edward W., xxx-xx-xxxx
Rawson, Michael L., xxx-xx-xxxx
Redfearn, John E., III, xxx-xx-xxxx
Redner, Wallace J., III, xxx-xx-xxxx
Reed, Ralph S., xxx-xx-xxxx
Reed, Robert W., xxx-xx-xxxx
Reehm, William R., xxx-xx-xxxx
Remley, Steven L., xxx-xx-xxxx
Rentz, Robert J., xxx-xx-xxxx
Rhoad, Franklin N., Jr., xxx-xx-xxxx
Rhoades, Maynard S., xxx-xx-xxxx
Rhoads, Albert E., xxx-xx-xxxx
Rhoda, Johnny K., xxx-xx-xxxx
Rhodes, Dale M., xxx-xx-xxxx
Rhodes, Robert C., xxx-xx-xxxx
Riddle, Philip D., xxx-xx-xxxx
Riesco, Gabriel, Jr., xxx-xx-xxxx
Riley, Michael F., xxx-xx-xxxx
Rimel, Charles D., xxx-xx-xxxx
Rindoks, Roland R., Jr., xxx-xx-xxxx
Ritenour, Robert W., xxx-xx-xxxx
Ritter, Gary C., xxx-xx-xxxx
Roberson, Eugene J., Jr., xxx-xx-xxxx
Roberts, Joseph A., xxx-xx-xxxx
Robertson, Kenneth C., Jr., xxx-xx-xxxx
Robinson, Brian L., xxx-xx-xxxx
Robinson, Gregory A., xxx-xx-xxxx
Robinson, Thomas D., xxx-xx-xxxx
Rodriguez, Gilberto, xxx-xx-xxxx
Roddy, John C., xxx-xx-xxxx
Roemmele, Michael E., xxx-xx-xxxx
Rogers, Roy W., xxx-xx-xxxx
Rokiski, William J., xxx-xx-xxxx
Roland, Robert R., xxx-xx-xxxx
Rollins, Robert C., xxx-xx-xxxx
Rosek, Joseph D., II, xxx-xx-xxxx
Rosello, Victor M., xxx-xx-xxxx
Ross, Richard J., xxx-xx-xxxx
Rouse, Lawrence E., xxx-xx-xxxx
Rubinow, Howard P., III, xxx-xx-xxxx
Rudy, Michael W., xxx-xx-xxxx
Russ, Merle D., xxx-xx-xxxx
Russo, David J., xxx-xx-xxxx
Russo, Frank J., xxx-xx-xxxx
Ruthenberg, Mark J., xxx-xx-xxxx
Rutherford, William A., xxx-xx-xxxx
Rutty, Charles D., xxx-xx-xxxx
Ryan, Michael J., xxx-xx-xxxx
Saenz, David E., xxx-xx-xxxx
Samples, Craig L., xxx-xx-xxxx
Sanchez, Ricardo S., xxx-xx-xxxx
Sanders, Danny W., xxx-xx-xxxx
Sanders, Michael E., xxx-xx-xxxx
Sandone, Randall J., xxx-xx-xxxx
Sanford, Gary L., xxx-xx-xxxx
Santos, Alfred G., xxx-xx-xxxx
Satack, Victor S., xxx-xx-xxxx
Savage, Richard T., xxx-xx-xxxx
Sawyer, Albert L., III, xxx-xx-xxxx
Schaefer, Kurt A., xxx-xx-xxxx
Schaefers, Joseph M., xxx-xx-xxxx
Sheipers, Eric B., xxx-xx-xxxx
Schroeder, Mark R., xxx-xx-xxxx
Schroeder, Michael M., xxx-xx-xxxx
Schupner, Ronald E., xxx-xx-xxxx
Schwartz, James A., xxx-xx-xxxx
Schweitzer, Gary C., xxx-xx-xxxx
Scott, Don T., xxx-xx-xxxx
Scott, Samuel T., xxx-xx-xxxx
Scully, Steven T., xxx-xx-xxxx
Sells, Stephen P., xxx-xx-xxxx
Selman, James D., Jr., xxx-xx-xxxx
Senneke, Wayne A., xxx-xx-xxxx
Shaffer, Thomas W., xxx-xx-xxxx
Shank, Joel F., xxx-xx-xxxx
Sharp, Patrick L., xxx-xx-xxxx
Sheldon, Victor L., Jr., xxx-xx-xxxx
Shepherd, Ronald E., xxx-xx-xxxx
Shields, Murrell G., xxx-xx-xxxx
Shields, Selvin E., Jr., xxx-xx-xxxx
Shirk, John L., xxx-xx-xxxx
Short, Bruce W., xxx-xx-xxxx
Short, Byron E., Jr., xxx-xx-xxxx
Shuman, Ronald C., xxx-xx-xxxx
Shuman, William J., Jr., xxx-xx-xxxx
Sides, Samuel A., xxx-xx-xxxx
Silwoski, Richard F., xxx-xx-xxxx
Simpson, Kenneth P., xxx-xx-xxxx
Sittler, Edward J., Jr., xxx-xx-xxxx
Skidmore, John W., xxx-xx-xxxx
Skog, Dennis N., xxx-xx-xxxx
Slater, Robert A., xxx-xx-xxxx
Slutter, Richard H., xxx-xx-xxxx
Smajd, Michael A., xxx-xx-xxxx
Small, Michael W., xxx-xx-xxxx
Smith, John W., xxx-xx-xxxx
Smithers, John R., xxx-xx-xxxx
Smullen, James R., xxx-xx-xxxx
Sneddon, Bruce A., xxx-xx-xxxx
Snell, Landon P., III, xxx-xx-xxxx
Snyder, Alan J., xxx-xx-xxxx
Spear, Harry L., Jr., xxx-xx-xxxx
Spearman, John E., Jr., xxx-xx-xxxx
Spence, Donald E., xxx-xx-xxxx
Spivey, Paul H., xxx-xx-xxxx
Sprague, Paul G., xxx-xx-xxxx
Stagner, Charles E., xxx-xx-xxxx
Stanley, Ronald W., xxx-xx-xxxx
Stauss, Kenneth W., xxx-xx-xxxx
St. Clair, Roy P., Jr., xxx-xx-xxxx
Stenberg, Paul F., xxx-xx-xxxx
Stevenson, Brian L., xxx-xx-xxxx
Stewart, Randall H., xxx-xx-xxxx
Stith, William H., xxx-xx-xxxx
Stone, Frank J., III, xxx-xx-xxxx
Stone, J. Elmer, xxx-xx-xxxx
Stovall, Jess M., II, xxx-xx-xxxx
Sudduth, John R., III, xxx-xx-xxxx
Sullivan, Jeremiah J., xxx-xx-xxxx
Sutherland, David J., xxx-xx-xxxx
Sutphen, Fred M., xxx-xx-xxxx
Sutton, Robert C., Jr., xxx-xx-xxxx
Sutton, Thomas H., xxx-xx-xxxx
Sweeney, Patrick C., xxx-xx-xxxx
Sweeney, Patrick J., Jr., xxx-xx-xxxx
Syracuse, Joseph A., xxx-xx-xxxx
Szasz, Ernest J., xxx-xx-xxxx
Takao, Alan C., xxx-xx-xxxx
Tanguan, Philip J., xxx-xx-xxxx
Tarkenton, Scott L., xxx-xx-xxxx
Taylor, Gregory, xxx-xx-xxxx
Teter, William A., xxx-xx-xxxx
Tettinger, John S., xxx-xx-xxxx
Thomas, Ernest C., xxx-xx-xxxx
Thomas, Patrick A., xxx-xx-xxxx
Thomas, Richard B., xxx-xx-xxxx
Thompson, Bruce W., xxx-xx-xxxx
Thompson, Dennis W., xxx-xx-xxxx
Thompson, Karl D., xxx-xx-xxxx
Thompson, Robert J., xxx-xx-xxxx
Thompson, Tom E., xxx-xx-xxxx
Thrasher, Michael R., xxx-xx-xxxx
Tindall, Robert E., xxx-xx-xxxx
Tiso, Roland J., xxx-xx-xxxx
Tolbert, Joe V., xxx-xx-xxxx
Totten, Barry N., xxx-xx-xxxx
Trausch, James S., xxx-xx-xxxx
Treewater, Michael J., xxx-xx-xxxx
Trotter, Vernon L., xxx-xx-xxxx
Trzop, Peter R., xxx-xx-xxxx
Tucker, Patrick M., xxx-xx-xxxx
Underwood, Randy Y., xxx-xx-xxxx
Utter, Richard R., xxx-xx-xxxx
Vandertulip, William D., xxx-xx-xxxx
Van Groll, Mark A., xxx-xx-xxxx
Van Horn, Robert H., Jr., xxx-xx-xxxx

Van Horn, William A., xxx-xx-xxxx
Van. Kleeck, David A., xxx-xx-xxxx
Vasey, Clyde R., III, xxx-xx-xxxx
Veitch, William A., II, xxx-xx-xxxx
Venable, Bruce A., xxx-xx-xxxx
Veve, Thomas D., xxx-xx-xxxx
Victor, Chester S., xxx-xx-xxxx
Villasenor, Ernesto E., xxx-xx-xxxx
Volz, Robert D., xxx-xx-xxxx
Walker, Charles R., xxx-xx-xxxx
Walker, Geary L., xxx-xx-xxxx
Walker, Michael E., xxx-xx-xxxx
Walker, Stephen J., xxx-xx-xxxx
Walsh, Gary L., xxx-xx-xxxx
Walters, Peter D., xxx-xx-xxxx
Wamsley, Michael P., xxx-xx-xxxx
Ward, Thomas E., II, xxx-xx-xxxx
Watson, Donald E., xxx-xx-xxxx
Waugh, Steven A., xxx-xx-xxxx
Way, Robert B., Jr., xxx-xx-xxxx
Weaver, David T., xxx-xx-xxxx
Weeks, Roy L., Jr., xxx-xx-xxxx
Wegner, William E., xxx-xx-xxxx
Weidler, Gary R., xxx-xx-xxxx
Weir, Donald S., xxx-xx-xxxx
Welch, Daniel L., xxx-xx-xxxx
Wesley, William A., xxx-xx-xxxx
West, Steven R., xxx-xx-xxxx
Westhaus, Arnold J., xxx-xx-xxxx
Westholm, Robert L., Jr., xxx-xx-xxxx
Wheel, David J., xxx-xx-xxxx
Whelden, Craig B., xxx-xx-xxxx
White, William A., xxx-xx-xxxx
Whittington, Terry C., xxx-xx-xxxx
Whittington, William E., IV, xxx-xx-xxxx
Whitworth, Donald D., xxx-xx-xxxx
Wieck, Paul H., II, xxx-xx-xxxx
Wilde, Ronnie L., xxx-xx-xxxx
Wilkes, Wayne K., xxx-xx-xxxx
Williams, David E., xxx-xx-xxxx
Williams, Gilbert F., xxx-xx-xxxx
Williams, Sam J., xxx-xx-xxxx
Williams, Shane L., xxx-xx-xxxx
Wilson, James C., xxx-xx-xxxx
Wilson, Michael A., xxx-xx-xxxx
Windham, James H., xxx-xx-xxxx
Wold, Norman H., xxx-xx-xxxx
Wolff, Donald A., xxx-xx-xxxx
Woodley, Leon, xxx-xx-xxxx
Woofter, John R., xxx-xx-xxxx
Woznicki, Richard T., xxx-xx-xxxx
Wozny, Douglas K., xxx-xx-xxxx
Wright, Charles T., xxx-xx-xxxx
Wright, Walter E., xxx-xx-xxxx
Yang, Philip S. H., xxx-xx-xxxx
Yeakey, George W., xxx-xx-xxxx
Young, Alan G., xxx-xx-xxxx
Young, Andy L., xxx-xx-xxxx
Young, Dan C., xxx-xx-xxxx
Zachariasen, Craig Z., xxx-xx-xxxx
Zachgo, Charles L., xxx-xx-xxxx
Zaleski, Edward J., xxx-xx-xxxx
Zoller, Walter M., XXXX

IN THE NAVY

The following named officers of the United States Navy for temporary promotion to the grade of captain in the staff corps, as indicated, subject to qualification therefor as provided by law:

MEDICAL CORPS

Aaron, Benjamin L.
Anatasi, Caspar W.
Bailey, David W.
Beasley, Walter E. I.
Becker, Matthew K.
Bemiller, Carl R.
Bishop, Robert P.
Blais, Bernard R.
Bloom, Joseph D.
Cantrell, Robert W.
Castell, Donald O.
*Chappelka, Alfred R.
Conky, George A.
Cowen, Malcolm L.
Cox, Jay S.
Deaner, Richard M.
Dickson, Larry G.
Dolan, Michael F.
Dully, Frank E. Jr.
Elliott, Robert C.
Farin, Walter E.
Flynn, Peter A.
Gallent, James H.
Goller, Vernon L.
*Harmon Stanley D.
Herman, Clifford M.
Hodge, Warren W.
Hoeffler, Dennis F.
Hoke, Bob
Jones, Clyde W.
Kelley, Donald L.
Kerwin, Joseph P.
Lang, Jesse E.
Lawton, George M.
*Leonard, John H.
Levy, Jerome
MacDonald, Rodney I.
Martin, George F.
Mathews, George W.
McDermott William M., Jr.
*Meehan, William L.
Miewald, John R.
Miner, Walter F.
*Moquin, Ross B.
*Myers, Robert C.
Norton, Richard H.
Ochs, Charles W.
Payne, Charles F.
Randall, Glenn H.
Rish, Berkley L.
Rivera, Julo C.
Robl, Robert J.
Russotto, Joseph A.
Sacks, Ellsworth John J.
*Salisbury, Edward M.
Sargent, Charles R.
Scott, Charles M.
Shepard, Barclay Moffat
*Shute, Howard E.
Stanton, Kevin C.
*Stenger, John R.
Swartz, Philip K.
Takaki, Norman K.
Thompson, Robert E.
Tobey, Raymond E.
Weir, Gordon J., Jr.

SUPPLY CORPS

Allinder, Joe A., Jr.
Bates, Robert L.
Brown, Russell M.
Brunson, Robert L.
Catanach, Anthony H.
Curtis, Richard E.
Derby, Francis A.
Donzell, Richard J.
Earl, Robert J.
Eckert, George H., Jr.
Flolid, Robert E.
French, Robert C.
*Gustavson, Arthur R.
Henry, Gerald R.
Hubbard, Charles C.
Kenealy, William E., Jr.
Kollios, Achilleas, E.
Lemma, Paul A.
Lenz, Allen J.
Maier, Raymond G.
McCoy, Thomas E., Jr.
McDonald, Francis E.
Moore, Guy T.
Moyer, William R.
Neelley, Charles G.
*Nehez, James R., Jr.
Normand, Robert L.
Palmer, Donald R.
Pomponio, Bruno A.
Ross, Orrin B.
Schanz, Thomas L.
Watt, Robert C.

CHAPLAIN CORPS

Beck, John Thomas
*Bontrager, John Kenneth
Boreczky, John Vincent
Gillis, Edward Francis
*Herrmann, Theodore Carl
Reagan, Ernest McDowell, Jr.
Seim, James Emmett
Stevenson, Neil MacGill
Vanbeck, Alfred Frank
Wicker, Richard Fenton, Jr.

CIVIL ENGINEER CORPS

Belton, Edward Hughes
Crowley, Irwin Daniel, Jr.
Demidio, Joseph Anthony
Erickson, James Albert
Keegan, Robert Daniel
Lapolla, Joseph
Mathews, Charles Joseph
Reese Joseph Lyman, Jr.
Rickels, Jack Clinton
Wear, John Ross
Wilson, Dean Gordon
Wright, John Albert

JUDGE ADVOCATE GENERAL'S CORPS

Baum, Joseph Herbert
Bruner, James Robert
Dowd, George Gordon, Jr.
Fink, Edward Robert
Hairston, Thomas Fleetwood
Jenkins, John Smith
Waite, Charles Eugene
Walker, Peter Brockway

DENTAL CORPS

Baker, Ronald Dale
Barbor, Gerald Leon
Bodine, Theodore Alan, Jr.
Brown, Kenneth Edward
Charles, James Hamilton, Jr.
*Collevecchio Emido Joseph
Coombs, Paul Spencer
Davidson, Richard Shelton
Eichel, Frederick Pecht
Firtell, David Norman
Garver, Don Gordon
Herr, Albert
*Kelly, James Frederic
King, Gordon Eugene
Klima, James Emil
Little, Richard Wesley
McDonald, Edwin Earl, Jr.
McLaughlin, Edward James
McLeod, Carlton Joseph
Moffitt, William Clarence
Nester, Calvin Dale
Pepek, Stanley Edward
Romaniello, Ronald Michael
Sanderson, Alexander Drennan
Scott, William Joseph
Wirthlin, Milton Robert, Jr.
Witte, Ernest Thompson

MEDICAL SERVICE CORPS

Buckley Emanuel Navarro
Dean, Jerdon Jay
*Gay, Laverne William
Gill, Robert Ledman
Jula, Paul Nestor
Long, William Lee
Longest, Clifford B.
*Schlamm, Norbert Arnold
Wells, John Emilus
Wolf, John Washington
Joung, Johnny Wilbur

NURSE CORPS

Osborne, Loah Gean

The following named officers of the United States Navy for temporary promotion to the grade of commander in the line and staff corps, as indicated, subject to qualification therefor as provided by law:

LINE

Adams, Douglas Neal
Adler, Roy Walter
Albright, John Douglas
Alexander, Richard Kenneth
Alkire, James Carl
Allender, George Roberts
Anckonie, Alex, III
Anderson, Donald Ralph
Arata, William Augustus, III
Askey, Henry Benjamin
Astorino, Gerald Paul
Barry, Thomas Joseph
Bartholomew, Thomas Charles
Bassett, Frank Eugene
Bayne, James Lewis
Belcher, Samuel Abram, III
Bellay, Daniel John
Berg, Robert Peter
Bergondy, Paul John
Bernet, Karl Robert
Bishop, Jack Dell
Bitoff, John William
Blackistone, David L.
Bliss, John Robert
Brake, Robert Leroy
Branch, Nathan Edward
Bridgman, Walter Elmer, Jr.
Brooks, Paul Eugene
Brown, Frank Herbert
Bruce Malvin Davidson
Bull, Lyle Franklin
Burns, Robert Edward
Caldwell, Robert Kinnaird
Carson, Aubrey Weaver
Chapple, Michael Wreford
Chrisman, John Aubrey, Jr.
Clardy, Herman Stacy, Jr.
Clark, Charles Wiggin, Jr.
Clark, Jeremy Carew
Clement, Frank John
Comly, Samuel Pancoast, III
Conley, Thomas Hugh, Jr.
Cooper, Grant Alexander
Cossairt, Larry Addison
Cover, Donald Lee
Cowdrill, David Thomas
Cox, David Barker
Coyne, George Kermit, Jr.
Craft, Don Carleton
Crane, Hugh Roy
Creighton, George C., III
Curry, James Delos
Dalebout, Ronald Alan
Daniels, Shane Patrick
Davis, Walter Jackson, Jr.
Depeyster, Robert Boyd
Dickmann, David Bruce
Dittrick, John James, Jr.
Doss, Dale Walter
Dougherty, Thomas Ford, Jr.
Duffey, Russell Gilbert
Earley, William Layton
Eddleman, Harold Eugene
Edwards, Scott

* Appointment issued ad interim.

Elliott, George Milton
Ettel, Michael Joseph
Farnham, David West
Fisher, Martin Richard
Fitzgerald, James Leo, Jr.
Fleming, Thomas Edward
Forsman, Charles Joseph
Gadbaw, Coleman Jerome, Jr.
Galstan, Gerald Needham
Gamboa, John Frank
Gard, Perry William, III
Gatje, Peter Herbert
Gibbons, Thomas
Gibson, Clifford William
Gibson, David Bruce
Gibson, Richard Charles, Jr.
Giese, Carl Emil, Jr.
Gilles, John Michael
Gilmore, Russell Eden
Given, Philip Roberts
Gladin, Jack Roger
Gloeckner, Frank James, III
Gorham, David Shive
Gorham, Milton Reid, Jr.
Graham, Richard Henry
Grasmuck, Robert John
Green, James Arthur, Jr.
Griffin, Hoke Daniel
Groder, Richard Allen
Gross, Alvin Chris, Jr.
Gustafson, Kenneth Ray
Hallier, Manuel Albert
Hardy, Ray Sterling, Jr.
Hayes, William Vincent
Hebert, Larry
Hendrix, Marion Francis
Herman, Robert William
Hernandez, Jesse Jiminez
Hewett, Marle David
Higgins, James Dunkin, Jr.
Hilt, John William
Hinson, Elbert Farrell
Hodkins, William Floyd
Hohmann, William Daniel
Holcomb, Don
Holland, John Diamond, Jr.
Holloman, Floyd William, Jr.
Holthaus, Hollis Lee
Horn, Leslie John
Hotard, William Carroll
Houston, Jerry Beaman
Hulme, John Bryant
Ingram, Forney Hurst, Jr.
Jackson, Perry Yates, Jr.
Jacobs, Paul Hamilton
Jenkins, Roger Gerald
Johnson, Everett Lavern
Johnson, Joseph William
Johnson, Lester Oscar, Jr.
Johnson, Martin Palmer
Kane, Fredric Clement, Jr.
Kauber, Rodney Kenneth
Kerr, Howard J., Jr.
Kessler, Edward Leo, Jr.
Kineke, John Ives
Kinnier, John Wesley
Klipp, Eugene Reid
Koenig, John Weldon
Kuechmann, Jerome Anthony
Kuhlke, Robert Ellsworth
Kunz, Chester Arthur, Jr.
Lamb, Larry Rex
Lamoureux, Robert Joseph
Larzelere, Charles W., III
Laseter, Jesse Lee
Leary, John Augustine, II
Leroy, Franklin Theodore
Leszcynski, Vincent John
Lindstrom, Axel Leonard
Lineberger, Preston Hearne
Long, David Elbert
Lucas, Robert Peter
Luhrs, Larry Lee
MacVean, Chales Robert
Manahan, Maurice Harlow
Massa Lawrence Lee
Massey, Lance Bradford
Matheson, John Whitman
Mathews, James Patrick
Mauz, Henry Herrward, Jr.
Mayo, Ned Henderson
Mays, Samuel Edwin, Jr.
McCain, John Sidney, III
McConnell, Harry Emerson
McCorry, John Hay
McDermontt, James Joseph
McKee, Richard Grant
McLaine, Warren Everett, Jr.
McMillan, John Garbriel
Meinhold, Richard James
Merriken, Stuart Anderson
Messegee, James Allen
Miller, Aloysius, Rudolph
Mills, Christopher Matheson
Molenda, Paul Henry
Monteath, Gordon M., Jr.
Moore, Leonard Moody
Morgan, David Eugene
Morris, Harold Glenn, Jr.
Morrison, Jerry Edwin
Moser, Robert Lee
Mosman, Donald Eugene
Mowery, Russell Vernon
Murphy, James Harry
Musgrove, Robert Wesley
Norton, Lee Edward, Jr.
O'Neal, Edward Allan
Osborne, James Thomas
Otto, Carl Hyde
Pabst, Howard Lloyd
Parks, Terrence Jon
Pellerin, Alfred Eugene, III
Penny, Lawrence Allen
Penta, Albert Michael
Pivarnik, William Dyer
Poarch, William Hillary
Powers, Richard Michael
Price, Robert Paschal
Putnam, Wayne Arnie
Rauch, Leo Albert
Raudio, Victor John
Read, Dennis Spencer
Redgate, James Paul
Reid, James Robert, III
Reid, Lawrence Renwick, Jr.
Ressler, Paul Michael
Reynolds, James Guy
Robbins, William Thomas, Jr.
Robinson, Kenneth George
Robison, Delma Coy
Roder, Peter Stevan
Rogers, Donald Kay
Roper, Vincent William
Rosen, Robert Stanley
Roy, Arthur
Royse, Perry Richard, Jr.
Schlauder, Wallace Joseph
Sears, David Freeman
Seeberger, John Joseph
Sellden, Carl Ivar
Sheehan, James Edward
Sherman, John Edward
Shoquist, David Roger
Slayman, Kelson Edward
Smith, Ralph Edward
Spraker, Irvin Lamonte
Spydell, Robert Edward
Stanford, David Leland
Steed, Samuel
Stephens, William Lee
Streeter, Gregory Frederick
Summers, Carl Richards
Sword, Curtis Sterling, Jr.
Taggart, Donald John
Taylor, James Richard C.
Taylor, Raynor Andrew Kent
Tedder, James Eugene
Templeton, Felix Eugene
Thiemann, Henry Joseph F., Jr.
Thomas, Richard Savage
Thomas, William Lafayette, Jr.
Truesdell, William Marlowe
Truly, Richard Harrison
Tuft, Markham Dennis
Vanatta, Jerry Lyall
Vettese, Joseph John
Vinson, John Thomas
Walston, Kenneth Robert
Warner, James Stewart
Warren, Robert Leonard
Watson, Ian McEwan
Weaver, Robert Earl
Welles, Bradford Wolcott
Westfahl, Richard Karl
White, Howard Gervis
White, Robert
White, Steve Carneal
Whitmire, Robert Lee
Wiley, Robert Charles
Williams, Eldon Grady
Wilson, Alger Lee
Whitherspoon, Emanuel Earl
Woodley, Richard Paul
Wright, Frederick W., III
Wright, Leo Charles
Young, Howard Leyland, Jr.
Zanin, Wilbur Francis, Jr.
Zorn, Nicholas Donald
Zwart, Ronald Peter

MEDICAL CORPS

Abbott, Emile Glines, II
Anderson, Homer Allen J.
Batcheller, John Wesley
Bell, Donald Dudley
Bell, Roger Allen
Bellanca, Joseph John
Belmont, Anthony Poth
Blood, Joseph Belton, Jr.
Bouvier, John Joseph
Bruton, Orin Hugh
Cole, Joe Charles
Cook, Taylor Irving
Dovi, Sebastian Frank J.
Dwinnell, Frank Laffey
Eason, Francis Joseph
Evertson, Larry Richard
Fleming, George Edward
Foreman, David Ross
Freeman, Richard Emery
Galasyn, Valentine Davi
Garvin, David Francis
Gerber, Frederic Hanfor
Giuntoli, Robert Lawren
Gold, Robert Stanley
Goodman, Dennis Bernard
Grasinger, John E.
Graybiel, Ashton Lynd
Green, Joseph Pieri
Hanson, Donovan Dean
Harrer, David Stanley
Harrison, William Orvil
Harvey, Claude Alden
Hauser, James Lincoln
Haynes, Henry Dodge
Heaster, James Matthew
Henrie, Edwin John
Hodges, Leon Carey, Jr.
Hoke, Hugh Holman, Jr.
Houts, Robert L.
Howe, John Keith, Jr.
Hunt, Ernest W., Jr.
Jervey, George McDonald
Jones, Harvey Michael
Just, Samuel Victor
Kammerer, William Rober
Kardinal, Carl Gustav
Kearney, Donald Joseph
Kellogg, Gordon Fowler
Kesselman, Alexander Le
Klofkorn, Raymond W.
Koomos, George L., Jr.
Lambert, James Arthur J.
Landes, James Wilbur
Landry, Sylvio Garrett
Lapine, Thomas John
Larsen, Geoffrey Arthur
Lewis, Robert Bennie
Lyons, James Frampton
Maclean, Thomas Archie
Mallon, Robert Bingham
Mantel, Lewis
Marnell, Daniel John
Mastin, Robert Eldon
McCarthy, Michael Patri
McCauley, Robert Franci
McKinlay, Robert T., Jr.
Meese, Richard Foulke
Milroy, William Charles
Munden, Frank A., Jr.
Negron, George Luis
Nernoff, John III
Nielsen, Louis Timothy

Oury, James Howard
Park, Phillip Marlin
Parker, David Donald
Pearson, Arthur Robert
Peloquin, William Henry
Pleet, Albert Bernard
Potter, Roger Allen
Principe, Ralph F.
Pruyn, Stephen C.
Queen, Thomas Allen
Rasmussen, Bruce David
Reed Charles Nelson II
Rend, Charles Ambrose
Robinson, Donald M.
Roche, William David, Jr.
Rotert, Larry Gean
Sandri, Piero Francesco
Sayler, Osbey Louis
Schaefer, Wendelin Walt
Schell, Paul Lee
Schueller, William Alan
Schwabe, Maria Rafael
Senechal, John Hughes
Shaeffer, Charlie W., Jr.
Shipman, Nolan Daniel
Smart, Robert Henry
Smyth, Joseph P.
Spencer, Harold Lee
Stone, William Charles
Strout, Eugene S.
Swope, John Peter
Thrasher, James Winfiel
Trefny, Frank A.
Vertuno, Leonard L.
Virgilio, Richard Willi
Voltolina, Eugene Josep
Weaver, Joseph William
West, Gerard Michael
Williams, Paul Franklin
Williams, Theodore Guy
Wilson, Orville Douglas
Wright, William Brandon
Ziegler, David C.

SUPPLY CORPS

Baker, James Hershel
Caro, James McDavid
Carver, Roy Edmond
Crane, Lee Duane
Dempsey, Edward John
Deruggiero, Saverio Anthony
Ekholm, Harry Hilding, Jr.
Filipiak, Francis Leonard
Fraher, Jeremiah
Hanna, Robert Martin
Hanson, Allan Henry
Hicks, Chesley Marshall, Jr.
Jaap, Joseph Davies
Jaecques, Raymond Cyril
Johnson, Omer Louis
Knight, James Walton, Jr.
Lombard, Graydon Frederick
Lord, Charles William
Lucas, Duane Brian
Marbain, Max David
Maxwell, John Richard,
Nix, Harvey Wilbert, Jr.
Pierce, Gordon Edward, Jr.,
Powell, Hal Bacon
Risinger, Robert Elvin
Sims, Thomas Malone, Jr.
Vanni, Ralph Joseph
Wyatt, John Matthew

CHAPLAIN CORPS

Baez, Samuel
Ferguson, Edmond Blant
Finn, Daniel Emmett
Hawley, Quinn Libert
MacCullagh, Richard Edward
Thacker, Donald Lee
Toland, Paul Leo
Weaver, John Franklin

CIVIL ENGINEER CORPS

Bolinger, Donald Servis
Bottorff, David Elliott
Gilmore, Gordon Ray
O'Donnell, William Joseph
Perez, Johnny
Schattner, Bernard Lipper
Steadley, Alfred Miller, Jr.
Tinker, Gordon Wilson

JUDGE ADVOCATE GENERAL'S CORPS

Donato, Don Jr.

DENTAL CORPS

Ackley, George William, Jr.
Bell, Walter Craig
Benn, Barry
Bumgardner, Willie Alva
Canal, John Wayne
Copeland, Richard Allen
Drake, David Lavery
Hodes, Leonard Franklin
Kawashima, Zitsuo
Kepley, Benjamin Franklin
Lamarche, Robert Guy
Lusk, Samuel Stowell
Mach, Joseph Steven
Mohr, Richard Walter
Oldfield, Ronald Earl
Regan, Paul Francis
Sabala, Clyde Lasa
Salmon, Thomas Newton
Scoralle, Donald Lawrence
Smith, Cameron Mulford
Stout, William Andrew
Streicher, Carl William

MEDICAL SERVICE CORPS

Brown, Charles Robert
Casler, Wilfred Ignasia
Comfort, Gerald George, Sr.
Hodges, Richard Claxton
Law, Malcolm Kenyon
Smith, Fred Ewing

NURSE CORPS

Dudley, Julia Barnes
Ottoson, John
Sisk, Elizabeth Anne

The following named officers of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the line and staff corps, as indicated, subject to qualification therefor as provided by law:

LINE

Acree, Paul Gene
Albers, Robert John
Amerau, Harold Francis, Jr.
Amidon, Ronald Edwin
Andersen, Lewis Ray
Anderson, Allan Walker
Anderson, Jerold French
Anderson, Jimmy Duke
Andrews, Edward Keith
Austin, Marshall Harlan, Jr.
Authement, Charles Francis
Bacon, Robert Peter
Bailey, Artise Glenn, Jr.
Baker, Garrett Elbert
Baker, Ronald Boyd
Baland, George Arnold
Ball, Robert Harold
Ball, Robert Lee
Ballew, Robert Douglas
Ballew, William Chadwick
Barry, John Lewis
Bartman, Carl Newton
Bass, Julius Preston, Jr.
Baumann, Carl Vincent
Baxley, Warren Candler, Jr.
Bays, Robert
Beard, Eugene Douglas
Becker, Alfred Edward
Beeler, Carroll Robert
Beery, James Robert
Beeson, Thomas Franklin
Benintende, Bob
Benson, Ray Wallace
Beougher, Rolland Ben
Best, Jimmie Merrill
Billings, Richard Arthur
Binford, Benjamin James
Bird, Ronald Stanley
Bishop, John Allison
Blades, Peter David
Bloch, Paul Stanley
Boink, Louis Herman, III.
Bond, James Leonard
Bontrop, Paul Nichols, Jr.
Bostic, Wayne Huston
Boston, Glenn John
Bourbonnais, Charles Robert
Bowden, Peter Klaus
Boyter, James Thomas
Bozich, Robert
Bradner, Charles Rawles
Brady, Bruce Milo
Branco, Robert John
Brearton, Gerald Arthur
Breen, William James, III.
Brenner, William Rush, Jr.
Brenton, George Wilbert, III.
Bright, Charles Norman
Brodt, Roger William
Brown, Robert Lee
Bucholz, Albert August, Jr.
Bucholz, Marvin John
Bucholz, Roger Coleman
Burcham, William Richard
Burgess, Larry Lee
Burke, James Lawrence
Burke, Richard Leon
Burlingame, Anson H., Jr.
Bushong, Robert Lee
Butler, Joseph Malcolm
Butler, Thomas Harold
Butters, Alvin Lavern, Jr.
Byerly, James Hampton, Jr.
Byron, Roger Walter
Cain, William Michael
Callahan, Jeffrey Edwin
Callaway, Leigh Lawrence
Callies, Lee Roy
Campbell, Archibald George
Caplinger, Royce Lee
Carpenter, Nicholas Mallory
Carpenter, Melvin R., III
Carroll, Charles Cecil
Carter, Lee Scott
Carter, Major Leonard
Cashman, David Matthew
Catlin, Carl Victor
Cavanaugh, Francis Patrick
Chagaris, Peter James
Chalfant, Donald Kenneth
Chancellor, Robert Oren
Chapman, Paul Thomas
Chenery, Robert Lucius
Childs, Jack Manning
Christian, Dennis Howard
Cisek, Peter John
Clancy, James Patrick
Clark, Donald Bartlett
Clark, John William
Clark, Ralph Belmont, Jr.
Clark, Ronald Woodrow
Clark, Terrell Irvin
Clay, Henry Leonard, III
Clesen, Gerard Foster
Cliffton, Donald Wayne
Coalson, Ronald Roger
Cobb, Harold Norman
Cole, Ronald Arthur
Coleman, Randy J.
Collins, John Patrick, Jr.
Colyar, Robert William
Conder. Robert Aubrey
Conjura, John Edward
Connor, Ernie Eugene
Cook, Gary Newton
Counter, James Richard
Cowell, Neil
Cox, Norman Otha
Creager, Hugh Gunder
Creely, Allan John
Croll, William Howard
Crooks, David Robert
Crossen, William Joseph
Crowe, Olen
Crump, David Allen
Cully, John David
Curran, William Francis, Jr.
Curtiss, Edward Barnes
Daly, Daniel Anthony
Dammeyer, George Howard
Damron, John Richard, Jr.
Daniel, Johnny Hale
Dannerth, Richard Carl
Dassler, Frederick W., Jr.
Davenport, Wortham David
Davis, Dickey Parrish
Davis, Norman Ewing
Davis, Thomas Anthony

Davis, Thomas Kevin, Jr.
Dawson, Richard Wesley
Deaton, James Paul
Debenport, David Rogers
Deda, Donald James
Deer, Robert
Degreef, Donald James
Destcroix, Lawrence E., Jr.
Dickson, Paul Bevis
Dilley, James Earl
Dixson, Max Harry
Doctor, Michael Stewart
Dolbec, Richard David
Dolgow, Barry Lee
Donath, Robert Milton
Donndelinger, Paul William
Doroshenk, Theodore
Dow, John Irvan
Drumm, R. David
Duermeyer, Stephen Paul
Dumas, James Walter
Dupont, Francis William, Jr.
Durham, William Rucker
Durr, Donald Gordon
Duskin, George Harley
Dutrow, Samuel Richard, Jr.
Dyck, Harry Milton, Jr.
Dyer, Robert Deane
Dynes, James Henry
Eacott, Richard George
Echlin, Delos Eugene
Eichman, Thurman Edwin
Elliott, Thomas Jene
Ellis, Robert Lee, Jr.
Erickson, William John
Etchingham, John Berchmans, Jr.
Eutsler, Roland Byerly, Jr.
Ewing, William David
Faricy, John Jerome, Jr.
Farrell, Robert Joseph
Fast, Richard Edwin
Fausz, James Edward
Favaro, Joseph Dominic
Fillingim, Ronald Louis
Fink, Ralph, III
Finotti, Donald Gustavo
Fisher, Kenneth Leroy
Flint, Charles Gerard
Folsom, Benjamin Franklin, Jr.
Foltzer, Louis Leonard
Forbes, George Thomas
Forrester, George Steven
Fox, James Charles, Jr.
Fragomene, Vincent Michael
Fraine, Robert Howard
Freise, Roger William
French, Stanley Lee
Fusco, Charles, Jr.
Galkin, Kenneth Earl
Gastar, Stanley Douglas
Gebhardt, Laurence Philbert
Gibson, Elwood Lloyd
Giffin, Eugene Riley
Gildersleeve, Elmer James
Giles, Grover Skip
Gillett, John Braxton, Jr.
Gilmore, Richard Delano
Gladston, Steele
Gleason, David Alan
Goodin, William Franklin
Gordon, Kenneth Elwood, Jr.
Gordon, Leonard
Gosselin, Richard Leon
Graham, Charles Irvin
Grause, Francis Patrick
Graville, William Neil
Greene, Robert Michael
Greenwell, William Manly
Grigsby, Jerry Carson
Grubaugh, Gene Calvin
Guenther, Michael Lyle
Gumm, William Eugene
Gunn, Lee Fredric
Haacke, Karl Marlin
Hagerup, Jack Edward
Haley, Willard James
Hamilton, Stephen Howard
Hand, James Michael
Harding, Ronald William
Hardt, Lorry Michael
Hargis, Richard Anthony
Harper, Stephen Kent
Harrell, Joe Wayne
Harrison, James Douglas
Harrison, Robert Wesley
Hausmann, Gerald Leo
Hawkins, Vaughan Austin
Hawley, Thomas Peck, Jr.
Hayden, William Buford
Heames, Richard David
Heckler, Francis Daniel, Jr.
Heid, Billy Lee
Hekel, Ulis Dean
Henry, Gordon Albert
Hepner, Bruce William
Hertzler, Charles Miller
Hickman, Donald Patrick
Hill, Theodore Drummond, Jr.
Hilzer, Ralph Conrad, Jr.
Hinds, Howard Huntington, Jr.
Hinkel, Harold James
Hockey, Edmund Richard
Hogan, John Benedict, Jr.
Holbert, Warren Lee
Hollarn, James William
Hollingsworth, Donald Lloyd
Honey, Lowell Ray, Jr.
Hope, Robert Edward
Hoskins, Samuel Britton
Hough, Howard Arthur
Houser, George Clifford, Jr.
Howze, Odis William, Jr.
Hubbard, Edward Briggs, Jr.
Hubble, Hilbert Roland
Huff, Gerald Lewis, Jr.
Hurley, George Edward, Jr.
Husak, Stephen Bruce
Hyde, Joseph Goree
Jackson, Lesley Jerry
Jackson, Richard Alan
Jamerson, Clifford Larry
Jeffers, Barry Newman
Jogan, Stephen
Johnson, Arnold Gale
Johnson, Carlton Roy
Johnson, Charles Harold
Johnson, Gary Lane
Johnson, Kenneth Gregory
Johnson, Myron Theodore, Jr.
Johnson, Thomas Randall
Johnston, Robert Sharrow
Jones, Raymond David
Jordan, David Lee
Juhl, Clarence Henry
Jukoski, Michael Joseph
Julian, James Allen
Kampf, Michael, III
Karlisch, Manfred
Kearley, John Albert
Keffer, David Franklin, Jr.
Keller, Paul Parker
Kelley, John Haran
Kelly, George William
Kemmerer, Frank Edward
Kennedy, James Conway, Jr.
King, Harold Warren
Kinlaw, Howard McConneral, Jr.
Kirkpatrick, Howard David
Kirkwood, Kenneth Melvin
Klaas, Jack Ulrich
Klopfenstein, Timothy David
Kodalen, Kenneth Cameron
Kohler, Robert Wilmer
Koiro, Ralph Nicholas
Kott, James Richard
Kozain, William Paul
Kramar, Joel David
Krause, Lawrence Charles
Krieger, David Harry
Kruse, Harry Rudolph
Kruszona, Raymond Robert
Kuhn, Frank Rudolf
Kukulski, Dennis Reginald
Ladd, Edward Harrison, III
Ladek, Kenneth Eugene
Lamoureux, George Joseph
Lane, Thomas Francis
Larson, Garry Lee
Lauer, Joseph James
Lawler, Curry Montgomery, Jr.
Lawrence, William Robert
Leboeuf, Lovencie Adam, Jr.
Ledbetter, Douglas Eugene
Lee, Howard Frank
Lehman, Harry
Lehmann, Charles Edward
Leland, George Clark
Leo, Don Garrett
Lewis, Ronald Bruce
Lewis, Ronald Patterson
Lindmark, Bruce Willard
Listol, Lavern Duwane
Littleton, Martin Wilson, III
Livermore, Leroy Walter
Livernois, Omer Alcide, Jr.
Longcore, Duane Maclyn
Longshaw, Jeffrey Scott
Lonnon, Lawrence Walter
Lopez, Thomas Joseph
Loughmiller, James Michael
Lowe, Julian Robbins
Ludwig, Carl Levi
Luecke, John Michael
Lull, Thomas Elwood
Lupton, William Lloydd
MacMichael, John Lee
Madison, William Ross
Magnus, Royal Stapleton
Mahood, James Norton
Martin, Kenneth Mark
Martin, Theodore Joseph
Martinez, Carlos Manuel
Maslowski, James Irwin
Matthews, John Edward
Mattson, James Lee
Maugeri, Peter James
McCarthy, Richard Joseph
McClure, Melvin Maury
McConagha, David Leigh
McConkey, Robert Franklin, III
McDaniel, Charles Harold
McDermott, Michael James, III
McGeorge, Glenwood William
McGlothlin, Larry Wyman
McGrath, Frank Kossler
McHargue, Gary Robert
McKelvain, Burrel Ray
McKinney, Michael Patrick
McMahon, James Patrick
McWhirter, Michael Reed
Mellin, William Francis, Jr.
Meyer, James Roger
Milam, Lonzo Oliver
Miller, Dennie Lee
Miller, Donald Charles
Mills, Clifford Childers
Millward, John Emery
Mitchell, Thomas Arthur
Mladineo, Stephen Victor
Montgomery, David James
Moore, Richard Lee
Morell, Ronald William
Morgan, Edward Lee
Morgen, Marty Paul
Morris, Roy Anthony, Jr.
Moser, Ronald Bryant
Mosher, Richard Lee
Moshgat, Jack Wilbur
Mowbray, James Francis
Munro, Richard Pullman, Jr.
Murphy, Lawrence Timothy
Myrick, James Albert
Nash, John Thornton
Nelson, Barron Craig
Nelson, Bruce Emerson
Nelson, Jerome Allen
Nemcosky, Martin Joseph, Jr
Noce, Robert Stephen
Norcross, William Griffin
Norris, Lewis Harold
Norwood, Richard Leon
Odle, Billy Fay
Oehlenschlager, John Gary
Ohlander, Ronald Bert
Olson, James Duane, II
O'Neill, David Lynn
O'Rourke, William George
Ostertag, James Joseph
Owen, Harry Clinton, III
Pacek, Robert Dennis
Paige, Gordon Curtis
Park, Carl Sheldon, Jr.
Parkinson, Keith Lee

Parodi, Richard Steven
Pate, David Brantley
Paul, Gerald Everett
Paulsen, William Gary
Paust, John Michael
Pawlas, Robert Wayne
Payton, James Eugene
Pearson, Russell Glenn, Jr.
Pennington, Arthur James
Pennington, Donald Robert
Perna, Gerald Matthew
Petersen, Richard James
Peterson, Donald Lee
Petre, Preston Olivier
Pfaff, George Leland
Phaneuf, David Roland
Pilling, Donald Lee
Pinkston, Larry Michael
Pollock, John Corse, III
Polsenski, Martin Joseph, Jr.
Price, Thomas Davis, Jr.
Puccini, Donald Emil
Pulver, William Donald
Pursel, John Joseph
Pursel, Thomas Moyer
Quist, Alfred Benson
Ramos, Frank Sebastian
Ramsdell, Steven Ulrey
Randall, Richard Francis
Rantschler, Robert Dale
Reason, Joseph Paul
Reckner, James Richard
Redus, William Clyde
Regan, John Francis
Reid, John Mark, Jr.
Reilly, Leo James
Rempt, Rodney Peter
Renager, Burton Whitmon, Jr.
Reumann, Richard Edward
Ricabaugh, George Glenn
Rice, Ervin Edward
Rice, Paul Donavon
Rice, Peter Adolph
Richards, Alva Gerald
Richardson, Clarence Lee
Richartz, Helmuth Herbert
Riley, Robert Handley
Ritzman, William Floyd
Robertshaw, Donald George
Robertson, Charles Lowry
Rogers, James William
Ronan, Lawrence Edward
Rooney, James William
Roth, Patrick Henry
Rountree, John McKinley, Jr.
Roybal, Genaro Marcelino
Rummler, David Clark
Runberg, John Eynar, Jr.
Rushing, John Michael
Safley, Gordon Wayne
Sala, Virgil
Sale, Charles Latane, Jr.
Sandway, Karl Martin
Sanford, Richard Martin
Saul, Carlton Wayne
Savage, Eugene Maurice
Schaar, Brian Warren
Schalde, John Arthur
Schmidt, Knute Menge, Jr.
Schmoker, Alan Elliott
Schneider, Paul Thomas
Schnier, Keith Leon
Schofield, Lee Neal
Scholl, Clifford William, Jr.
Schrock, Edward Lee
Schroeder, Arthur John
Schultz, Robert William, Jr.
Schultz, Roger Frederic
Schupbach, Duane Fredrick
Scigulinsky, Kenneth Frank
Scott, Patrick Randolph
Scott, Thomas Bairner, III
Sehlin, Donald Barry
Seyl, Stephen Joseph
Sharp, Erwin Arthur
Sharp, Walter Eugene
Shaw, Michael Gilbert
Sherer, Cecil Wise
Shoemaker, Stephen Collier
Shriver, Ronald Eugene
Siegel, William Morris
Sierras, Eugene L., Jr.
Simms, Richard Galen
Simpson, John Drury, Jr.
Simpson, Richard John
Simpson, Thomas Elroy
Sipe, Edman Leon
Sirmans, Russell Emerson
Skidmore, William Harvey
Skoog, Mark Chester
Slaasted, Richard Michael
Sloane, Richard Tobias
Small, Robert Frank
Smereczniak, David Afton
Smith, Eldin Dean
Smith, Jerry Livingston
Smith, John Walter
Smith, Robert Allen
Snodgrass, Donald James
Snyder, John Harrison
Sokol, David
Sosnowy, Edward Dominick
Soucek, Philip Merrill
Spring, William Roger
Springer, Robert William
Steiner, Clifford
Stevens, David Michael
Stevens, Thomas Francis
Stevenson, Clyde Melvin
Stevenson, John Wayne
Steward, Mobray Wayne
Stewart, Malcolm Wayne
Stewart, Robert Paul
Stock, Michael John
Stocktonidus, Lewis
Stoll, Peter Steven
Stroebel, Donald Walter
Strum, Richard Ralph
Stubbs, Leslie Eugene
Stucki, Laurence Valdimir
Sugermeyer, Neil Storck
Sullivan, Huey H., III
Sullivan, James Edward
Sullivan, James Joseph
Sullivan, John Lawrence
Tana, Yasuto
Tassin, Terry Jude
Taylor, Billy Glen
Telquist, Lee Michael
Templin, Charles Leonard
Thelen, Frank, III
Thiele, James Frederick
Thomas, Donald Gene
Thompson, Donald Joseph
Thompson, Alexander
Tilt, Thomas William
Tittle, Harold Edwin
Todd, Alan Mitchell
Tolbert, Otis
Tootle, Dan Calvin
Trickett, James Raymon
Tripp, Philip Burr
Trotter, Earl Clay
Trumbauer, Harry Bentley, Jr.
Turner, Everett, Eugene, Jr.
Tweel, John Alexander
Vail, David William
Vanderwier, Gerald Michael
Vandyke, John Charles
Veasey, James Alexander, III
Vermilyea, David Whitney
Vetter, Donald Robert
Vickery, Wayne Marshall
Vidrine, David Matthew
Vinroot, Charles Arthur
Volk, Charles Louis, Jr
Vroom, James Edgar, II
Wagner, Tod William
Walker, Michael eGorge
Wall, Eugene Albert
Walters, Louis Alan
Waters, Gordy Waymond
Watson, Bruce Wallace
Weaver, Thomas Stephen
Webb, Hugh Leonard
Webb, Jack Kenneth
Weerts, Gary Lee
Weisensee, William John, Jr.
Wendt, William Arthur
Wenyon, Leonard James
West, Franklin Griffith, Jr.
Whiffen, Calvin Uridge, III
Whitehead, Kenneth Lee
Whitmore, John Thomas
Wicks, Guy Weaver
Wiita, Marlin Dale
Wiley, James William
Wilkerson, David Paul
Wilkins, Frank Scott
Wilkinson, John Palen, III
Willett, D. G.
Williams, Billy Bryan
Williams, Larry Dale
Williams, Paul Richard
Wilson, Edmund Powell A.
Wilson, Melvin Arthur
Wilson, Robert Craig
Wilson, Stephen Ray
Winn, James Richard
Winter, Albert William
Wixom, Robert Frank
Wojcik, Raymond Thomas
Wong, Henry Kingsy
Wood, Gerald William
Wuthrich, Lawrence Gene
Yusi, Frank Louis
Zardeskas, Ralph Anthony
Zerr, John Joseph
Zunich, Ralph Edward

MEDICAL CORPS

Allen, Raymond Gary
Anderson, Edward Franci
Armacost, James Owen
Ascarelli, Emanual Davi
Barber, Keenan Frank
Blackstone, Thomas Lee
Bradley, Vincent Depaul
Byrd, William Eugene
Carlton, Thomas Grant
Castelli, John Baptist
Cate, Vasa William
Claeys, Donald Walter
Clark, Robert Thomas
Clarke, William Robert
Clubb, Robert James
Cobb, Orr McClentic, Jr.
Conroy, John Joseph, III
Cunningham, Mark Alan
Dalforno, Victor Michae
Davis, Arthur Brian
Davis, William Lee
Deck, David H.
Donaldson, John Culver
Donaldson, John Finglas
Donlan, Charles Joseph
Edge, Otis Henry, Jr.
Engelman, David Ream
Gendron, Richard Mauric
Gilbert, Henry Tucker, I
Griffin, Howard Aubrey
Grossman, Jay Robert
Harris, Robert David
Harris, Ronald Tyrone
Harris, Russle Herbert
Hicks, Frances Faline
Hicks, James Stowers
Hobby, George Alvin
Hopkins, Milan Lewis
Hughes, Robert Edward
Humphries, Thomas Joel
Hyatt, Floyd Richard
Iacovoni, Victor Emanue
Jacobson, Albert Dale
Johnston, Glenn Richard
Jorgensen, James Paul
Kane, Edward William
Keel, William Aubrey, Jr.
Komadina, Steven Anthony
Koterbay, Robert John
Landis, Andrew Ellsworth
Lawson, Richard Weldon
Lewis, Paul Elwood II
Lightsey, Alton Lionel
Logen, Peter Daniel
Lowell, William Grayson
MacNeil, Daniel Joseph
Manjerovic, Richard Michael
Mann, James Tift, III
May, William Edward
McCracken, Linton Edgar
McGinnis, Michael Jon

Mills, Stephen Currie
Moeser, Thomas Eugene
Moors, Richard Lee
Murray, Brian Philip
Nealis, Richard Harmon
Neilson, Kevin Charles
Nettles, Willard H., Jr.
Noffsinger, Jay Edwin
O'Callaghan, James Howell
O'Grady, William Brian
Osborne, Robert Clark
Palenschat, Douglas Art
Pelletiere, Vincent James
Phares, John Carmony
Ranck, Sidney Graydon J.
Randolph, Robert Perry
Rankin, David Lee
Rathbun, Lawrence Arden
Reagin, David Earl
Robinson, Terrance Andrew
Rose, Richard Steven
Ross, Franklin Harvey J.
Sanders, Henry Albert I
Sauer, Ferdinand Francis
Saunders, Brian Stanley
Schechner, Stephen Alan
Schrantz, William Francis
Seward, John Peter
Smith, David Andrew
Smith, Harry William
Spencer, Donald Allen
Spruce, Wayne Ellsworth
Stidman, Frederick C., Jr.
Stiglitz, Avery
Sugden, Richard Greer
Swan, Davis McKean
Taylor, Gerald Dale
Taylor, Norman Wayne
Taylor, Raymond Frederick
Toms, Billy Roy
Tretheway, Donald Garth
Underhill, Thurlow Reed
Vance, Donald Alton
Whitner, William Church
Zissman, Edward Neal

SUPPLY CORPS

Blaschke, Edwin Henry, Jr.
Caplain, David Alan
Carter W. J., Jr.
Chase, Dana Chester
Cheney, James Cowser
Cicio, John David
Clark, Robert Hamilton
Conti, Carmen Daniel
Cook, Frank Cummings, III
Cook, Glover Hardy, Jr.
Cook, Herman Theodore
Cordova, Stephen Malcolm
Curtis, Glen Dale
Dagrosa, Richard Louis
Dahlen, David Gordon
Deruiter, Kenneth
Dolores, George, Jr.
Ebbers, Richard Earl
Gaboury, Paul Albert, II
Gallagher, Patrick Francis
Gibson, Blair Edwin
Graeter, William F., II
Hall, David William
Hargus, James William
Hislop, Charles Edward
James, William Byrd
Kasse, David Ivan
Ketcham, Richard Dean
Kingston, David Tallman
Kohlmann, John Thomas
Lee, William Thomas
Losquadro, Joseph Pasquale
Marshall, Terry Lynn
Mate, Gerald Edward
McCollough, Wesley Lee
McCormack, Robert Steele
McCosco, Charles Fred
McLean, Forrest Thomas
McPherson, Thomas Dale
Mesterhazy, Andrew Paul
Moles, Robert Francis
Molishus, Joseph, Jr.
Moran, Thomas Albert
Morgan, Edward Aiken, Jr.
Mullen, John David
Myers, William Martin
Norton, Ronald Ward
Outlaw, George Dedric, Jr.
Paulson, John Jacob
Payne, David Almon
Reagan, Joseph Emmett
Robertson, Herbert Milton
Robinson, Richard Daniel
Ruble, David Ross
Ruppmann, Heinz Otto
Sanchez, Domingo Hall
Sarfaty, Dennis Paul
Schmidt, Carl August, Jr.
Schultz, Thomas Craig
Schutte, Harvey Charles
Semmens, Thomas Perry, Jr.
Solatka, Robert James
Stalnaker, Delbert Kenneth
Sweazey, George Edgar, Jr.
Swenson, Donald Wayne
Tarantino, David Arthur
Tastad, Michael Louis
Thieman, Richard James
Tonokovich, Thomas Marvin
Traaen, Lloyd Halvor
Tucker, James Thomas
Tucker, Thomas Grady
Webb, James Michael
Williams, Gary Dean
Williams, Michael C.
Winget, William Peter
Yeatts, Ralph Leroy

CHAPLAIN CORPS

Cary, Peter John
Connelly, Albert P. III
Rothermel, Fred Allen

CIVIL ENGINEER CORPS

Conroy, John Francis
Coston, Oscar Lee, Jr.
Dougherty, James Michael
Falke, John Whelan
Hendrickson, Jack Ellis
Henley, John Steele
Hilderbrand, William Casey
McBride, Robert Norman
McTomney, William Paul
Milkintas, John Clayton
Morris, Henry Minard
Niemeier, William Ray
Pabarcus, John Russell
Parsons, James Fowler
Riggin, Donald Curtis, Jr.
Rowan, Howard Kemp
Sargent, Delon Denny
Siler, Richard Terry
Sleight, Leon Jay
Taylor, Ernest Theodore
Watson, Francis Xavier

JUDGE ADVOCATE GENERAL'S CORPS

Decarlo, Nicholas Peter
Ellis, Charles Edmond, Jr.
Fulkes, Duane Sherman
Gerken, Robert Thomas
Hewett, Peter Augustine, Jr.
Kahn, Thomas Kenneth
Kirkham, Steven Dorsey
Wylie, Thomas Langford

DENTAL CORPS

Benz, Richard David
Cochran, Michael Alan
Davis, Melvin Lee
Fleming, James Gerald, Jr.
Funk, Edward Adrian
Glass, Ernest Gilbert
Haasl, Robert James
Krueger, Frederic
Lynch, Vincent Michael
Lynde, Thomas Ainsworth
Rohen, Robert Michael
Wilson, William Thomas
Winstead, Herbert West

MEDICAL SERVICE CORPS

Adams, George Michael
Antonopoulos, Adam Theodore
Aringdale, Gorgon Lyle
Ashburn, James Henry
Ayers, Samuel Hugh, Jr.
Baker, George Franklin
Bates, James Francis
Berghage, Thomas Eugene
Bondi, Kenneth Robert
Bookout, Thomas Eugene
Boyle, Richard Lee
Butts, Charles Monroe
Carter, Franklin Wood
Clem, Nicholas Jerry
Cobet, Andre Benoit
Collings, Donald Earl
Combs, Wesley Berry
Connors, Francis Simon
Cook, Jimmie Charles
Corley, Richard Annon
Cota, Richard Jesse
Cunningham, William F.
Dalton, James Travis
Danziger, Richard Ellis
Dekrey, Charles Ross
Doptis, Leigh Errol
Dotson, Robert Melvin
Eklund, Paul George
Evans, Delbert Eugene
Felt, Walter Robert
Fisher, Frank D. R.
Fisher, Stephen Todd
Foxx, Stanley Alan
Franklin, Douglass Wayne
Galbreath, Jerry Dean
Gaugler, Robert Walter
Greear, John Fields, III
Gregory George Harry
Hall, David Allen
Hays, Elwin Jesse
Hilling Levi Nelson
Hmel, Leonard John
Hodge, Frederick Allen
Holcomb, Howard Edwin
House, John Francis
Hurder, Richard James
Johnson, Richard Lee
King, William Goodrich
Kouns, David Michael
Lashley, Kenneth Lamar
Levan, Donald Robert
Lewis, Jack Terry
Lewis, Larry Allen
Louy, James William
Martin, Donald Gene
McCullah, Robert Douglas
McDonald, John Leroy
McManaman, Vincent Leo
McNamara, John Edward, III
Medlock, Thomas Perry
Milek, Mary Lynn
Miller, Allen Byrd
Moy, Michael William
Mullins, William Franklin
Murray, John Lee
Narut, Thomas Edward
Oglesby, Norman Gabriel
Olson, James Gordon
Palmer, Timothy Trow
Parson, William Michael
Pepera, Leroy Joseph
Piatt, Austin Eugene
Pilkington, Richard Herbert
Rausch, Jack Lee
Renfro, Gene F.
Reysen, Richard Harry
Riley, Phillip Truman
Robinson, Richard Allen
Sammons, John Henry
Sawyer, Dennis Lee
Schinski, Vernon David
Schubert, Deane Edward
Schultz, Warren Walter
Shaver, Roger Galen
Sholdt, Lester Lance
Sippel, John Edward
Skinner, Howard Lee
Slipsager, Frederick Andrew
Smith, James Leroy
Smith, Lloyd Dean
Socks, James Frederick
Spillman, Graham B., Jr.

Stafford, Erich Estill
Stefanakos, Thomas Kostas
Strong, Douglas Michael
Thome, Carl Donald
Truman, Patrick Andrew
Uddin, David E.,
Vickerman, Raymond Harold
Watko, Laurence Phillip
Wienkers, Charles Francis
Windholz, Francis Leo
Woodman, Daniel Ralph
Wortendyke, John
Young, John William
Zink, George Arthur

NURSE CORPS

Cash, Carolyn Jeanette
Coffin, Barbara Ellen
Colucci, Michael Joseph
Cornell, Mary Elizabeth
Doughy, Elaine Jean
Downs, Robert James
Gangwer, Constance Wray
Gannon, Charlotte Caldwell
Hay, Mary Kathryn
Howard, William James
Hunter, Hazel Mary
Iwata, Miki
Johnson, Carolyn Ann
Kelly, Sharon K.
Kirkpatrick, Sandra Anthony
Krall, Virginia Mary
Leary, Cornelia Ann
Lindelof, Sandra Sue
Lufkin, Janice Mae
Maffeo, Edith Jane
Mazzone, Nancy Rose Marie
McCumber, Susan Anne
Murrow, Elizabeth Jean
Polak, Kristen Ann
Snyder, Eilleen Esther
Spanier, Bernice Clare
Spring, Pollyann
Stoll, Caroline Jean
Toepke, Nancy Hull
Ulschmid, Margaret Mary
Ward, Maureen Winifred
Wilke, Joanne Marie
Yonk, Patricia Mae

The following named officers of the Reserve of the U.S. Navy for temporary promotion to the grade of captain in the staff corps, as indicated, subject to qualification therefor as provided by law:

MEDICAL CORPS

Dekrey, John A.
Gehry, Eugene L., Jr.
Grenier, Rodolphe A.
Wallace, Craig K.

CHAPLAIN CORPS

Keyser, Charles L.

The following named officers of the Reserve of the U.S. Navy for temporary promotion to the grade of commander in the Medical Corps subject to qualification herefor as provided by law:

Bergfeld, John A.
Butler, Albert B.
Crawford, William G.
Davis, Timothy J.
Dunlap, Daniel C.
Gabel, Ronald E.
Hanson, Bruce A.
Hung, Hing Y.
Johannes, James D.
Kelly, Daniel J.
Kraft, Avram R.
Lee, Charles D., Jr.
Mac Donald, Charles J.
Miller, Ira D.
Piconi, John R.
Rice, Bruce J.
Rosenthal, Samuel G.
Santiago, Lombardo M.
Smith, Dale J.
Whitecotten, Glenn L.
Walsh, Patrick C.
Winebright, James W.

The following named Regular officers of the U.S. Navy, for temporary promotion to the grade of commander in the line and staff corps, as indicated, pursuant to title 10, United States Code, section 5787, subject to qualification therefor as provided by law:

LINE

Gillen, Robert F.
Henrizi, John T.
Porter, Ethan O.
Rothschild, Robert E.

SUPPLY CORPS

Smith, Billy G.

Comdr. Ruth M. Tomsuden for permanent promotion to the grade of captain in the Supply Corps of the Navy subject to qualification therefor as provided by law.

The following named women officers of the U.S. Navy, for permanent promotion to the grade of commander in the line and staff corps, as indicated, subject to qualification therefor as provided by law:

LINE

Adsit, Carol A.
Burman, Rita M.
Sheppard, Beverly F.

SUPPLY CORPS

McMorrow, Janice R.

The following named women officers of the U.S. Navy, for permanent promotion to the grade of lieutenant commander in the line and staff corps, as indicated, subject to qualification therefor as provided by law:

LINE

Bell, Barbara F.
Cook, Dixie C.
Currie, Louise B.
Francisco, Donna L.
Frederick, Margaret A.
Gregory, Barbara L.
Hanna, Beverly J.
Hansen, Kathleen
Holmes, Gloria A.
Motz, Ingrid M. I.
Renninger, Jane F.
Tracy, Barbara O.
Turner, Bonnie L.
Turner, Margie L.
Ward, Gail M.

SUPPLY CORPS

McWhorter, Paula
Olsen, Linnea M.

Lt. Comdrs. John R. Miller and Roger M. Keithly, Jr., U.S. Navy, for transfer to and appointment in the Judge Advocate General's Corps in the permanent grade of lieutenant and the temporary grade of lieutenant commander.

The following named officers of the U.S. Navy for transfer to and appointment in the Judge Advocate General's Corps in the permanent grade of lieutenant (junior grade) and the temporary grade of lieutenant:

Babington, William R., Jr.
Banks, Stephen A.
Grant, Harold E.
Griffin, Michael A.
Kerr, Gerald L., III
Misiaszek, Peter E.
Nolta, Franklin L.
Perzold, Robert K.
Pompey, Charles S.
Reeve, Thomas B., Jr.
Rosintoski, Lawrence J.
Scholz, Ronald W.
Scully, John J.
Smith, Willie, Jr.
Uris, Richard B.
Warner Robert S., Jr.

The following named officers for transfer to and appointment in the Supply Corps in the permanent grade of lieutenant (junior grade) and the temporary grade of lieutenant:

Dow William C.
Minton, David S.
Rawlings, David G.
Wenchel, George F.

The following named officers for transfer to and appointment in the Supply Corps in the permanent grade of ensign:

Calia, John E.
Gilbert, George B.
Hinton, James R.
Joens, Steven K.
Tucker, Benjamin W., Jr.

Lt. Noel T. Bird, Medical Service Corps., U.S. Navy, for transfer to and appointment in the line of the Navy, not restricted in the performance of duty, in the permanent grade of lieutenant (junior grade) and the temporary grade of lieutenant.

Cmdr. James A. Buckley, Supply Corps, U.S. Naval Reserve, for transfer to and appointment in the line of the Naval Reserve, in the permanent grade of commander.

Lt. Gerald E. Mate, Supply Corps, U.S. Navy, for temporary promotion to the grade of lieutenant in the Supply Corps, subject to qualification therefor as provided by law.

Comdrs. Robert F. Cary, Jr. and Richard F. Kiepfer, Medical Corps, U.S. Navy, for temporary promotion to the grade of commander in the Medical Corps subject to qualification therefore as provided by law.

Lt. Comdr. William D. Craver, Medical Corps, U.S. Navy, for temporary promotion to the grade of lieutenant commander in the Medical Corps subject to qualification therefor as provided by law.

The following named lieutenant commanders in the line and staff corps of the Navy for temporray promotion to the grade of commander pursant to title 10, United States Code, section 5787, while serving in, or ordered to, billets for which the grade of Commander is authorized and for unrestricted appointment to the grade of commander when eligible pursuant to law and regulation subject to qualification therefor as provided by law:

LINE

George, Hugo C.
Koening, John W.
Oleson, Charles A.
Tiedemann, Hollie J., Jr.

SUPPLY CORPS

Burke, Leroy
Johnson, Edward M., Jr.

CIVIL ENGINEER CORPS

Currie, Wayne L.

Lt. James P. Vambell, U.S. Navy, for permanent promotion to the grade of lieutenant subject to qualification therefor as provided by law.

The following named officers of the U.S. Navy for permanent promotion to the grade of lieutenant (junior grade) in the line and staff corps, as indicated, subject to qualification therefor as provided by law:

LINE

Gilmer, Franklin B.
Hoope, Douglas D.
Monteville, Arthur R.
Kennish, James R.
Stewart, Malcolm W.
Selfridge, Harry E.

SUPPLY CORPS

Johnson, Darold L.

CONFIRMATIONS

Executive nominations confirmed by the Senate, March 12, 1973:

DEPARTMENT OF AGRICULTURE

Robert W. Long, of California, to be an Assistant Secretary of Agriculture.

FEDERAL AVIATION ADMINISTRATION

Alexander P. Butterfield, of California, to be Administrator of the Federal Aviation Administration.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be lieutenant

Dennis Pepe

To be lieutenant (junior grade)

Kent P. Dolan

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)