By Mr. DE LA GARZA:

H.R. 17745. A bill to authorize the Secretary of Agriculture to purchase certain land from Texas Southmost College, Brownsville, Tex.; to the Committee on Agriculture.

By Mr. DINGELL:

H.R. 17746. A bill to suspend, except for facilities to control air or water pollution, the investment credit and the allowances of accelerated depreciation in the case of certain real property; to the Committee on Ways and Means.

By Mr. FOLEY:

H.R. 17747. A bill to establish a Small Tax Division within the Tax Court of the United States; to the Committee on Ways and Means.

By Mr. HECHLER:

H.R. 17748. A bill to amend title 18 of the United States Code to prohibit travel or use of any facility in interstate or foreign commerce with intent to incite a riot or other violent civil disturbance, and for other purposes; to the Committee on the Judiciary.

By Mr. ROGERS of Florida:

H.R. 17749. A bill to amend the Internal Revenue Code of 1954 to allow teachers to deduct from gross income the expenses incurred in pursuing courses for academic credit and degrees at institutions of higher education and including certain travel; to the Committee on Ways and Means.

By Mr. DYAL:

H.J. Res. 1303. Joint resolution proposing an amendment to the Constitution of the United States granting to citizens of the United States who have attained the age of 18 the right to vote; to the Committee on the Judiciary.

By Mr. MEEDS:

H.J. Res. 1304. Joint resolution to authorize the President to issue annually a proclamation designating the 7-day period beginning October 2 and ending October 8 of each year as Spring Garden Planting Week; to the Committee on the Judiciary.

By Mr. BRADEMAS:

H. Con. Res. 1007. Concurrent resolution authorizing the printing of a report on "International Education" by the House Education and Labor Committee; to the Committee on House Administration.

By Mr. ANDERSON of Illinois:

H. Con. Res. 1008. Concurrent resolution expressing the sense of the Congress with respect to certain proposed regulations of the Food and Drug Administration relating to the labeling and content of diet foods and diet supplements; to the Committee on Interstate and Foreign Commerce.

By Mr. LAIRD:

H. Res. 1018. Resolution requesting the President for certain information regarding the 1967 budget; to the Committee on Appropriations.

By Mr. POWELL:

H. Res. 1019. Resolution to authorize the General Subcommittee on Labor of the Committee on Education and Labor to conduct an investigation and study of the operation of elementary and secondary schools by Federal agencies; to the Committee on Rules.

By Mr. COOLEY:

H. Res. 1020. Resolution to authorize the printing of additional hearings and other materials by the Committee on Agriculture; to the Committee on House Administration.

## PRIVATE BILLS AND RESOLUTIONS

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

By Mr. CAHILL:

H.R. 17750. A bill for the relief of certain individuals; to the Committee on the Judiciary.

By Mr. IRWIN:

H.R. 17751. A bill for the relief of Monika Keilholz; to the Committee on the Judiciary.

By Mr. KEITH:

H.R. 17752. A bill for the relief of Jane Velsa Smith; to the Committee on the Judiciary.

By Mrs. KELLY:

H.R. 17753. A bill for the relief of Wan Tao Liu; to the Committee on the Judiciary.

By Mr. LENNON:

H.R. 17754. A bill for the relief of Tabor City Lumber Co. and Hennis Freight Lines; to the Committee on the Judiciary.

By Mr. POWELL:

H.R. 17755. A bill for the relief of Patrick Sibblies; to the Committee on the Judiciary.

# SENATE

## WEDNESDAY, SEPTEMBER 14, 1966

*(Legislative day of Wednesday, September 7, 1966)*

The Senate met at 11 o'clock a.m., on the expiration of the recess, and was called to order by Hon. THOMAS H. KUCHEL, a Senator from the State of California.

Rev. C. Fred Williams, D.D., minister, Central Methodist Church, Arlington, Va., offered the following prayer:

Almighty God, our Heavenly Father, we are Thy people, seeking Thy favor and dependent upon Thy mercy. Our fathers trusted in Thee and were not put to shame. We would surpass their faith in this exciting day.

We are bound in the bundle of life, so that we rise or fall, suffer or rejoice as one.

The Nation and the world look to this body of chosen persons for leadership. May the awareness of this fact give strength, purpose, and compassion to their planning, and lend speed to their action in all undertakings of the common good.

Grant, O God, that the magnitude of the world task laid upon their shoulders may not blind them to the needs of the least, nor the cries of the neediest make them unmindful of the Nation and of the world.

We pray that the desire for Thy kingdom of righteousness may be greater than the demands of any party or class that clamors for a hearing at the expense of another.

Our prayers are offered for the President of this Nation. May he be a person of sharpened judgment, undeviating courage in behalf of the right, and inflexible integrity. May he continually look to Thee for daily strength, knowing that he is accountable to Thee, and to the people who have given him the high office which he holds.

These things we ask in the spirit of the Man of Galilee. Amen.

## DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., September 14, 1966.*

*To the Senate:*

Being temporarily absent from the Senate, I appoint Hon. THOMAS H. KUCHEL, a Senator from the State of California, to perform the duties of the Chair during my absence.

CARL HAYDEN,
*President pro tempore.*

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

## THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the Journal of the proceedings of Tuesday, September 13, 1966, was approved.

## EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT ON SURVEY OF PROBLEMS OF SMALL BUSINESS DISPLACEMENT UNDER FEDERAL AND FEDERALLY ASSISTED PROGRAMS OF PUBLIC IMPROVEMENT

A letter from the Attorney General, transmitting, pursuant to law, a report on a survey of the problems of small business displacement under Federal and federally assisted programs of public improvement (with an accompanying report); to the Committee on Banking and Currency.

CONSTRUCTION AND OPERATION OF A DESALTING PLANT

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to provide for the participation of the Department of the Interior in the construction and operation of a large prototype desalting plant, and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERTSON, from the Committee on Banking and Currency, without amendment:

H.R. 14026. An act to provide for the more flexible regulation of maximum rates of interest or dividends payable by banks and certain other financial institutions on deposits or share accounts, to authorize higher reserve requirements on time deposits at member banks, to authorize open market operations in agency issues by the Federal Reserve banks, and for other purposes (Rept. No. 1601).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. 3809. A bill to authorize the Public Printer to print for and deliver to the General Services Administration an additional copy of certain publications (Rept. No. 1602).

By Mr. RANDOLPH, from the Committee on Labor and Public Welfare, without amendment:

H.R. 16367. An act to extend the benefits of the war orphans' educational assistance program to the children of those veterans of the Philippine Commonwealth Army who died or have become permanently and totally disabled by reason of their service during World War II, and for other purposes (Rept. No. 1604).

By Mr. RANDOLPH, from the Committee on Labor and Public Welfare, with an amendment:

H.R. 16330. An act to provide for extension and expansion of the program of grants-in-aid to the Republic of the Philippines for the

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hospitalization of certain veterans, and for other purposes (Rept. No. 1603).

## GLENIVAN C. SIMPSON—REPORT OF A COMMITTEE

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following original resolution (S. Res. 303), which was placed on the calendar:

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Glenivan C. Simpson, niece of Granterson S. Clark, 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.

## THOMASINE C. THOMPSON—REPORT OF A COMMITTEE

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following original resolution (S. Res. 304), which was placed on the calendar:

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Thomasine C. Thompson, widow of William A. Thompson, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' 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.

## BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LONG of Missouri:

S. 3828. A bill for the relief of Georgios Markatis; to the Committee on the Judiciary.

By Mr. HOLLAND:

S. 3829. A bill for the relief of Dr. Alfredo Reboredo-Newhall; to the Committee on the Judiciary.

By Mr. ANDERSON:

S. 3830. A bill to amend the Atomic Energy Act of 1954, as amended; to the Joint Committee on Atomic Energy.

By Mr. HARRIS (for himself and Mr. MONRONEY):

S. 3831. A bill to permit negotiation of a modification to a contract for sale of certain real property by the United States to the city of Lawton, Okla.; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. HARRIS when he introduced the above bill, which appear under a separate heading.)

By Mr. PEARSON:

S. 3832. A bill to amend title I of the Housing Act of 1949 to provide that the special rule for determining the acquisition price of property damaged by subsidence of coal mines shall extend also to property damaged by subsidence of other mines; to the Committee on Banking and Currency.

(See the remarks of Mr. PEARSON when he introduced the above bill, which appear under a separate heading.)

By Mr. NELSON (for himself, Mr. MCGOVERN, Mr. MCCARTHY, and Mr. MONDALE):

S. 3833. A bill to preserve, protect, develop, restore, and make accessible the lake areas of the Nation by establishing a national lake areas system and authorizing programs of lake and lake areas research, and for other purposes; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. NELSON when he introduced the above bill, which appear under a separate heading.)

By Mr. ALLOTT (for himself and Mr. DOMINICK):

S. 3834. A bill to amend chapter 141 of title 10, United States Code, to provide for price adjustments in contracts for the procurement of milk by the Department of Defense; to the Committee on Armed Services.

## CONCURRENT RESOLUTION

### PRESERVATION OF RIGHTS OF THE UNITED STATES UNDER THE GENERAL AGREEMENT ON TARIFFS AND TRADE

Mr. TOWER submitted the following concurrent resolution (S. Con. Res. 107), which was referred to the Committee on Finance:

S. CON. RES. 107

Concurrent resolution proposing that the President carefully preserve the rights of the United States under the General Agreement on Tariffs and Trade

Whereas under the General Agreement on Tariffs and Trade the assured life of tariff concessions granted by the United States and other nations, parties to the agreement, is limited to three-year periods automatically renewable except as to concessions on which timely notice of modification or withdrawal is given prior to the commencement of a new three-year period; and

Whereas under article XXVIII of the General Agreement on Tariffs and Trade any contracting party may on the first day of each three-year period modify or withdraw a concession previously granted, subject only to the obligation prior thereto to consult with the contracting party with which such concession was initially negotiated and other contracting parties determined to have a principal supplying interest with a view to securing their agreement to such change, including the possibility of compensatory adjustment in other tariff items to maintain the general level of reciprocal and mutually advantageous concessions not less favorable to trade than those provided for in GATT concessions prior to such negotiations; and

Whereas the six months' period preceding the first day of each three-year period has been established as the period within which any nation desiring to exercise its rights under article XXVIII of GATT may give notice of its intention to the other contracting parties; and

Whereas the assured life of the GATT tariff concessions presently extends to December 31, 1966, January 1, 1967, is the first day of the next three-year period of assured life for such concessions, and the six months' "open season" for the giving of notice of intention to modify or withdraw tariff concessions under article XXVIII commenced on July 1, 1966; and

Whereas article XXVIII has frequently been invoked by other nations for the modification or withdrawal of particular tariff concessions, and the United States, in view of these precedents and the explicit terms of article XXVIII of GATT, has a clear right to initiate similar action during the current "open season" period for modification; and

Whereas United States imports of machinery for the papermaking industries have increased 211 per centum from 1962 to 1965, while United States exports declined by 20 per centum and the United States balance of trade in such machinery declined by 42 per centum during the same period, and the United States share of the world export trade in such machinery declined from 24 per centum in 1962 to 17 per centum in 1964; and

Whereas notwithstanding an exceptionally high level and rate of increase in capital expenditures per production worker maintained by the domestic industry producing machinery for the papermaking industries, the domestic industry's highly labor-intensive manufacturing processes make it increasingly vulnerable to low-cost foreign competition; and

Whereas the level of import duties and other frontier imposts on imports of paper industries machinery by the principal foreign supplying nations is not less than 20 per cent ad valorem and two times or more the level of United States import duties, which are the lowest of any supplier of such machinery; and

Whereas the United States market is now the principal outlet for the sale of machinery produced in the United States for the papermaking industries, and the import penetration of that market has now risen to a level comparable to that which existed in the cotton textile trade when the United States took the initiative of securing reasonable import regulation through the negotiation of an international arrangement on cotton textiles; and

Whereas for the welfare of the employees of the United States industry producing papermaking machines and to maintain the potential of that industry for economic growth by reserving for it a suitable share in and the growth of the domestic market for paper industries machinery, the United States Government should exercise its clear right under article XXVIII of GATT to modify existing tariff concessions by restoring them to a level comparable to that now maintained by the principal foreign suppliers of such machinery through their combination of duties and frontier taxes: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of the Congress that the President or his authorized representatives should invoke the rights conferred upon the United States by article XXVIII of GATT to modify the tariff concessions granted by the United States so as to restore the rate of duty specified for the applicable tariff items of the Tariff Schedules of the United States to the level specified below:

| Item | Articles | Rates of duty | |
|---|---|---|---|
| | | 1 | 2 |
| | Machines for making cellulosic pulp, paper, or paperboard; machines for processing or finishing pulp, paper, or paperboard, or making them up into articles: | | |
| 668.00 | Machines for making cellulosic pulp, paper, or paperboard | 20% ad val. | 35% ad val. |
| 668.02 | Other | 20% ad val. | 35% ad val. |
| | Parts of the foregoing machines: | | |
| 668.04 | Bed plates, roll bars, and other stock-treating parts for pulp or paper machines | 20% ad val. | 20% ad val. |
| | Other: | | |
| 668.06 | Parts of machines for making cellulosic pulp, paper or paperboard | 20% ad val. | 35% ad val. |
| 668.07 | Other | 20% ad val. | 35% ad val. |

## RESOLUTIONS

### GLENIVAN C. SIMPSON

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported an original resolution (S. Res. 303) to pay a gratuity to Glenivan C. Simpson, which was placed on the calendar.

(See the above resolution printed in full when reported by Mr. JORDAN of North Carolina, which appears under the heading "Reports of Committees.")

### THOMASINE C. THOMPSON

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported an original resolution (S. Res. 304) to pay a gratuity to Thomasine C. Thompson, which was placed on the calendar.

(See the above resolution printed in full when reported by Mr. JORDAN of North Carolina, which appears under the heading "Reports of Committees.")

## LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, with statements limited to 3 minutes, and that the unfinished business not be displaced.

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

## MODIFICATION OF CONTRACT FOR SALE OF CERTAIN REAL PROPERTY TO CITY OF LAWTON, OKLA.

Mr. HARRIS. Mr. President, I introduce for myself and my senior colleague [Mr. MONRONEY], a bill to permit negotiation of a modification of a contract for sale of certain real property by the United States to the city of Lawton, Okla. The bill I introduce today is intended to correct a situation which has existed for some 40 years and has become a burden on the city of Lawton.

Under the provisions of an indenture signed by the Secretary of the Interior on June 11, 1926, 270 acres of Kiowa, Comanche, and Apache reserve lands were conveyed to the city of Lawton in consideration of the payment of $2,800 and a promise to furnish, without cost to the Government, a sufficient supply of water for domestic use at the Fort Sill Indian School and the Kiowa Indian Hospital.

Since the signing of this indenture, the facilities of the Fort Sill Indian School and the Kiowa Indian Hospital have expanded considerably, which has required the city of Lawton to construct an 8-inch water main to the facilities of the Fort Sill Indian School and the Kiowa Indian Hospital. Also, the daily requirements of the Fort Sill Indian School have now reached approximately 45,000 to 50,000 gallons, which constitutes a sizable expense to the city of Lawton and which would appear to be somewhat beyond the intentions of the indenture agreed to in 1926.

The bill I introduce today would allow the Secretary of the Interior and the city of Lawton to negotiate an agreement under which the U.S. Government would pay for such water that is used at the Fort Sill Indian School and the Kiowa Indian Hospital.

I feel that this bill will be fair and just to both parties concerned. It will permit a renegotiation of the contract based upon changed conditions.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 3831) to permit negotiation of a modification to a contract for sale of certain real property by the United States to the city of Lawton, Okla., introduced by Mr. HARRIS (for himself and Mr. MONRONEY), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

## AMENDMENT OF TITLE I OF HOUSING ACT OF 1949, RELATING TO ACQUISITION PRICE OF CERTAIN PROPERTY

Mr. PEARSON. Mr. President, I submit for appropriate consideration a bill to amend title I of the Housing Act of 1949 to provide that the special rule for determining the acquisition price of property damaged by subsidence of coal mines shall extend also to property damaged by subsidence of other mines.

I would point specifically to a situation that exists in Kansas City, Kans., where in a certain area subsidence was caused due to limestone mining and the city of Kansas City, Kans., feels, and I believe properly so, that the property owners have suffered a considerable loss and should be entitled to the same benefits which would apply in the situation involving coal mines.

It appears that the only possibility of obtaining relief would be to amend the Housing Act of 1949 and thereby eliminate the coal mine restriction of this provision, thus broadening its application to include all types of mines, including limestone. I submit this bill for proper committee study.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 3832) to amend title I of the Housing Act of 1949 to provide that the special rule for determining the acquisition price of property damaged by subsidence of coal mines shall extend also to property damaged by subsidence of other mines, introduced by Mr. PEARSON, was received, read twice by its title, and referred to the Committee on Banking and Currency.

## THE NATIONAL LAKES PRESERVATION ACT OF 1966

Mr. NELSON. Mr. President, I introduce for appropriate reference a bill—the National Lakes Preservation Act of 1966—to save our valuable lakes and lake areas from destruction. This bill is the sixth in a comprehensive package of water pollution control bills which includes S. 1479 on detergent pollution, S. 1908 on vessel pollution, S. 2940 on waste management research, S. 3327 on municipal pollution, and S. 3608 on DDT pollution. In the near future I will introduce three additional bills in this package, one providing for the control of sediment pollution in small streams, a second offering incentives to industry for the abatement and prevention of industrial pollution, and a third establishing comprehensive control of pesticides of all kinds.

Lakes—and by lakes I mean surface waters impounded naturally or dammed up as reservoirs—are a vital part of the water cycle by which our national water supply is maintained. The Great Lakes chain, of which about 60 percent lies in the United States, covers an area of over 95,000 square miles, holds 5,500 cubic miles of water, and includes 10,333 miles of shoreline.

In addition to the Great Lakes, there are in the United States 250 natural lakes with a surface area of 10 square miles or more; 20 major saline lakes; and many large reservoirs. There are also countless smaller lakes, ponds, and reservoirs scattered across the countryside.

These lakes are important to the breeding and support of a great variety of plant, animal, fish, and bird life; they are used for boating, swimming, hunting, fishing, camping, and other recreational purposes; and they are exploited for commercial fishing, waste disposal, water supplies, transportation, and electric power generation.

The demands made on our lakes by these many uses are very large now and, with continued population growth, urbanization, and industrialization, will increase dramatically in the future. If our lakes are to continue to meet these heavy present and future demands, they must be protected from spoliation by urban, commercial, and agricultural activities, and remain accessible to the public.

Present trends, however, are in the opposite direction. Our lakes are becoming less accessible to the public as shore property is bought up for private uses, and are endangered by a number of deterioration problems. I have been informed by Secretary of the Interior Udall that only about 5 percent of the total shoreline of the Nation's largest 250 natural lakes is held by governmental units, while the remaining 95 percent is privately owned.

Public ownership of the U.S. shoreline of the Great Lakes is somewhat better, with about 19 percent of the total shoreline owned by Federal, State, and local governments. However, public ownership does not mean that the shoreline is available for recreational purposes. Much of this land in some States is occupied by major cities such as Duluth-Superior, Detroit, Cleveland, Milwaukee, Chicago-Gary, and Buffalo. Although these cities have lakefront recreational areas, a substantial portion of the frontage they occupy is not available for recreational purposes.

I ask unanimous consent that tables showing the ownership of the U.S. shore-

line of the Great Lakes and their interconnecting rivers be inserted in the RECORD at this point in my remarks.

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

*Public ownership of U.S. Great Lakes shoreline, by lake*

| Lake | Total shoreline | Publicly owned [1] | Publicly owned |
|---|---|---|---|
| | *Miles* | *Miles* | *Percent* |
| Lake Superior | 1,422 | 390 | 27.4 |
| Lake Michigan | 1,661 | 260 | 15.7 |
| Lake Huron | 934 | 96 | 10.3 |
| Lake Erie | 407 | 155 | 38.1 |
| Lake Ontario | 289 | 13 | 4.5 |
| For all lakes | 4,713 | 914 | 19.4 |

[1] Federal, State, and local government ownership.

*Public ownership of U.S. Great Lakes shoreline, by State*

| State | Total shoreline | Publicly owned [1] | Publicly owned |
|---|---|---|---|
| | *Miles* | *Miles* | *Percent* |
| Wisconsin | 820 | 100 | 12.2 |
| Superior | 325 | 76 | 23.4 |
| Michigan | 495 | 24 | 4.8 |
| Michigan | 2,960 | 611 | 20.6 |
| Superior | 917 | 296 | 32.3 |
| Michigan | 1,058 | 205 | 19.4 |
| Huron | 934 | 96 | 10.3 |
| Erie | 51 | 14 | 27.5 |
| Minnesota (Superior only) | 180 | [2] 18 | 10.0 |
| Illinois (Michigan only) | 63 | 22 | 34.9 |
| Indiana (Michigan only) | 45 | 9 | 20.0 |
| Ohio (Erie only) | 233 | 23 | 9.9 |
| Pennsylvania (Erie only) | 50 | 48 | 96.0 |
| New York | 362 | 83 | 22.9 |
| Erie | 73 | 70 | 95.9 |
| Ontario | 289 | 13 | 4.5 |

[1] Federal, State, and local government ownership.
[2] Indian reservation.

*Public ownership of U.S. Great Lakes interconnecting rivers shoreline*

| Interconnecting river | Total shoreline | Publicly owned [1] | Publicly owned |
|---|---|---|---|
| | *Miles* | *Miles* | *Percent* |
| St. Marys River (Michigan) | 91 | 1.4 | 1.5 |
| St. Clair River (Michigan) | 81 | 9.5 | 11.7 |
| Detroit River (Michigan) | 64 | 32.0 | 50.0 |
| Niagara River (New York) | 69 | 38.3 | 55.5 |
| For all rivers | 305 | 81.2 | 26.6 |

[1] Federal, State, and local government ownership.

Mr. NELSON. Mr. President, the problems of lake deterioration—eutrophication, sedimentation, mineralization, salinization—are directly correlated with the extent of private ownership—the greater the private ownership of the frontage of a lake, the more likely it is that the lake will have deterioration problems. Of course, there are notable exceptions to this, for in many cases private owners have practiced good shoreline management and saved lakes from destruction.

The deterioration of a lake is due to complex interactions between man's activities and natural lake processes. All lakes undergo transformations over geologic time through which they gradually fill in and ultimately become dry land—in effect, they "die." Man's activities accelerate and add new dimensions to these processes, however, so that what should take centuries or milleniums to occur may actually take place in a mere handful of years.

Agricultural, urban, and commercial facilities and activities affect water supply and quality indirectly by disturbing shoreline and watershed vegetation and drainage, and directly by water withdrawals and waste disposal. In turn, these changes disturb or destroy the conditions of breeding and survival of fish, animals, and birds, resulting in substantial changes in wildlife populations. Of course, the esthetic quality of the natural land-lake environment is adversely altered or completely destroyed by all of these changes. The end result of this process of spoliation is that the lake becomes a stinking cesspool, filled with pollutants, trash and mud, devoid of animal and plant life, and practically useless to man.

One of the important lake processes affected by the large quantity of wastes from cities, farms, and factories is eutrophication. Such wastes contain a high proportion of phosphates and nitrates from detergents, artificial fertilizers, manufacturing raw materials, and sewage. Domestic and industrial detergents, containing up to 50 percent by weight of phosphate compounds, are responsible for a substantial part of this substance found in these wastes. The phosphates and nitrates serve as plant nutrients, and encourage an overproduction of algae. Eventually, if biological enrichment continues too long, decaying algae take oxygen out of the water and release noxious and even poisonous substances. These extensive algae blooms also disrupt currents and waves, encourage the buildup of sediment, and impede evaporation and aeration.

A few of the lakes which have already suffered some degree of deterioration are Lake Ontario, Lake Erie, and Lake Michigan; Lake Mendota and Lake Winnebago in Wisconsin; Lake Okeechobee in Florida; Lake-of-the-Woods in Minnesota; Lake Pepin in Minnesota and Wisconsin; Lake Champlain in New York and Vermont; Lake Washington in Washington; Lake Zoar in Connecticut; and thousands of smaller lakes and ponds. Practically every State reports problems with algal growths, the problem being particularly severe in the north midwestern States.

Deterioration of our lakes has become so bad that it is seriously interfering with recreational and other uses. Secretary Udall placed particular emphasis on this point in a recent letter to me:

> Many of the lakes in our heavily populated states, and in those states where recreation is a principal economic activity, are undergoing rapid environmental changes, which are undesirable and which are contributing factors in developing troublesome water-quality problems commonly referred to as eutrophication. The value of these lakes to our economy may be impaired unless substantial progress is made in controlling pollution and in understanding the chemical and physical processes involved.

The Great Lakes have undergone extensive deterioration due to massive discharges of wastes from the urban, commercial, and agricultural activities along their shores. Significant chemical changes have taken place in the waters of all the lakes except Lake Superior. Lake Erie has deteriorated substantially, while Lake Ontario and the southern and western areas of Lake Michigan are in grave danger of a similar fate. The pollution investigation reports prepared by the Public Health Service and the Federal Water Pollution Control Administration provide incontestable evidence of the grave conditions in Lake Erie and Lake Michigan. These reports include statements such as the following regarding the pollution of Lake Michigan and Lake Erie:

> Lake Erie and its tributaries are polluted. The main body of the Lake has deteriorated in quality at a rate many times greater than its normal aging processes, due to inputs of pollution resulting from the activities of man.
>
> About 6 million pounds of waste products are discharged every day from U.S. industries and municipalities to the Detroit River. Twenty million pounds of measured waste constituents are discharged every day from U.S. waters of the Detroit River to Michigan waters of Lake Erie.
>
> Along the shores of Lake Michigan, in Indiana and the southern shore in Illinois, the Lake waters are discolored by suspended and dissolved waste materials, in sharp contrast to the pleasing appearance of the rest of Lake Michigan.
>
> The bottom of Lake Michigan in the Calumet and Chicago areas exhibits biological degradation by organic enrichment. Whereas in the clean bottom areas of Lake Michigan there are many kinds of organisms, with none predominating, this area exhibits only a few kinds.
>
> The waters of the Milwaukee area, particularly the lower Milwaukee River within Milwaukee County, Milwaukee Harbor and the adjacent waters of Lake Michigan, are seriously degraded in quality.
>
> The waters of the Green Bay area, Michigan and Wisconsin, particularly the Lower Fox River and the southern end of the Bay itself, are seriously degraded in quality.

Mr. President, I ask unanimous consent that extracts from the summaries of findings in these Great Lakes pollution reports be inserted in the RECORD at this point in my remarks.

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

EXTRACTS FROM THE REPORT "A COMPREHENSIVE WATER POLLUTION CONTROL PROGRAM—LAKE MICHIGAN BASIN—GREEN BAY AREA"

(Prepared by the Federal Water Pollution Control Administration in June, 1966)

SUMMARY

*General*

The waters of the Green Bay Area, Michigan and Wisconsin, particular the Lower Fox River and the southern end of the Bay itself, are seriously degraded in quality. Other significant areas of water quality impairment include the mouths of the Escanaba, Menominee, Peshtigo and Oconto Rivers and certain upstream reaches of these Green Bay tributaries. Biological, chemical, microbiological and physical parameters analyzed by the Great Lakes-Illinois River Basins Project indicate this fact.

Pollution of the waters of the Green Bay Area is further evidenced by the destruction or impairment of legitimate water uses. The City of Green Bay obtains water from Lake Michigan for municipal use rather than

using the adjacent waters of Green Bay. Public bathing beaches in this area were closed more than 25 years ago. The fishery in extreme southern Green Bay is virtually non-existent. Esthetic enjoyment is impaired by the unsightly appearance of the waters of the Lower Fox River. In other locations of the Green Bay Area high coliform counts and low dissolved oxygen levels impair recreation and fish and wildlife support. The growth of undesirable amounts and kinds of algae in certain areas further impairs use of the waters for municipal supply and recreational activities.

*Sources of pollution*

The most significant sources of pollution in the Green Bay Area are the pulp and paper mills discharging their wastes to tributaries or to the Bay itself. These wastes have an estimated population equivalent (PE) of 2,600,000. To put this another way, the industrial wastes discharged to the waters of the Green Bay Area are equivalent in terms of oxygen consuming power to the raw wastes of over 2,600,000 persons.

Municipal waste treatment plants of the Green Bay Area serve a present population (1960) of 454,000. These plants receive an estimated additional industrial waste load of 300,000 PE, the combined effluents from these municipal waste treatment facilities discharge a total of 51,000 pounds of 5 day biochemical oxygen demand ($BOD_5$) daily to the waters of the area. Municipal waste treatment plant effluents are the second largest source of pollution in the Green Bay Area.

In addition to the oxygen consuming wastes other significant waste constituents include phosphates, phenols, ammonia nitrogen and fecal bacteria.

*Future conditions*

Growth projections made by the Great Lakes-Illinois River Basins Project economists indicate that the 1960 Green Bay Study Area population of 710,000 may increase more than two-fold by 2020. Industrial activity, due primarily to productivity and increased demands, is expected to double by approximately 1980 and continue to expand in the decades that follow. Water demands and waste flows will increase at a more moderate pace due to water reuse and other efficiencies. These and other related factors indicate that the untreated waste load received by all municipal sewerage systems in the study area will increase to about 2,220,000 PE by 2020. By comparison, the present estimated untreated waste load received by all municipal plants of the Green Bay Area is approximately 750,000 PE.

*Need for comprehensive program*

The present severe impairment of water uses in the area and the increasing waste loads which will be imposed on the waste treatment facilities point out the need for the adoption and implementation of a comprehensive program for water pollution control in the Green Bay Area. The program of necessity must emphasize construction of new and enlarged sewerage facilities, proper operation of new and existing facilities, and intensive and continuous monitoring of operation, waste treatment efficiency and water quality.

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EXTRACTS FROM THE REPORT "A COMPREHENSIVE WATER POLLUTION CONTROL PROGRAM—LAKE MICHIGAN BASIN—MILWAUKEE AREA"

(Prepared by the Federal Water Pollution Control Administration in June 1966)

SUMMARY

*General*

The waters of the Milwaukee area, particularly the lower Milwaukee River within Milwaukee County, Milwaukee Harbor and the adjacent waters of Lake Michigan are seriously degraded in quality. Swimming, boating, fishing and esthetic enjoyment are among some of the water uses adversely affected by this degradation of water quality. Biological, chemical, microbiological and physical parameters analyzed by the Great Lakes-Illinois River Basins Project indicate this fact. Further evidence of pollution cited in this report included the frequent closing of city beaches due to bacterial contamination, the presence of objectionable algal blooms and the general appearance of the waters of the area.

*Sources of pollution*

Municipal waste treatment plants of the Milwaukee area serve a present population of 1,080,000. These plants receive an additional industrial waste load population equivalent (in terms of oxygen consuming capacity) of 1,570,000. The combined effluents from these municipal waste treatment facilities discharge a total of 60,000 pounds per day of $BOD_5$ to the waters of the area. Municipal waste effluents represent the largest source of pollution in the Milwaukee area.

Other significant waste sources include those industries which discharge wastes directly to the waters of the area (25,000 pounds of $BOD_5$ per day), intermittent discharges from combined sewer overflows, wastes discharged from commercial and private vessels and urban and rural runoff.

In addition to the organic load imposed by these waste sources other contaminants of significance in the area include phosphates, phenols, ammonia nitrogen and bacterial contamination.

*Future conditions*

Growth projections made by GLIRB Project economists indicate that the Milwaukee study area 1960 population of 1,104,000 will increase more than two-fold by 2020. Industrial activity is projected to increase more than six-fold over the same time period. Taking into account these and other related factors it is considered that the untreated waste load handled by all Municipal sewerage systems in the study area will increase to approximately 8 million PE by 2020. Compare this with the present estimated untreated load of 2,700,000 PE.

*Need for comprehensive program*

The present impairment of certain water uses in the area plus the increasing waste loads which will be imposed on the waste treatment facilities point out the need for the development of a comprehensive program for water pollution control in the Milwaukee area. The program of necessity must emphasize construction of new sewerage facilities, proper operation of new and existing facilities, and intensive and continuous monitoring of operation, waste treatment efficiency and water quality.

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EXTRACTS FROM "REPORT ON POLLUTION OF LAKE ERIE AND ITS TRIBUTARIES"

(Prepared by the Public Health Service in July 1965)

I—SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

*Conclusions*

Lake Erie and its tributaries are polluted. The main body of the Lake has deteriorated in quality at a rate many times greater than its normal aging processes, due to inputs of pollution resulting from the activities of man.

Identified pollutants contributing to damages to water uses in Lake Erie are sewage and industrial wastes, oils, silts, sediment, floating solids and nutrients (phosphates and nitrates). Enrichment of Lake Erie, caused by man-made contributions of nutrient materials, is proceeding at an alarming rate. Pollution in Lake Erie and its tributaries causes significant damage to recreation, commercial fishing, sport fishing, navigation, water supply, and esthetic values.

Eutrophication or over-fertilization of Lake Erie and the Maumee River is of major concern. Problems are occurring along the lake shoreline and at some water intakes from algal growths stimulated by nutrients. Algal growths can be controlled, and entrophication of Lake Erie can be retarded and perhaps even reversed by reducing one or more nutrients below the level required for extensive growth.

Soluble phosphate is the one nutrient most amenable to reduction or exclusion from Lake Erie and its tributaries. Present technology is capable of removing a high percentage of soluble phosphates from sewage at a reasonable cost.

More than three-fourths of the soluble phosphates reaching Lake Erie are from municipal waste discharges; this includes some industrial wastes routed through municipal facilities. Proper design and operation of secondary sewage treatment plants will result in significantly greater removal of phosphorus compounds than that produced by primary treatment alone. This will result in substantial reduction of aquatic growths and will be reflected chiefly in a better fishery, a better water supply and better water for recreational uses.

Discharges of municipal and industrial wastes originating in Michigan, Indiana, Ohio, Pennsylvania, and New York are endangering the health or welfare of persons in States other than those in which such discharges originate. This pollution is subject to abatement under the Federal Water Pollution Control Act.

Pollution of the Detroit River and Michigan waters of Lake Erie has been the subject of a previous enforcement conference. Specific recommendations were developed by the Detroit River-Lake Erie Project for all known sources of municipal and industrial wastes in the conference area. At the conference session held June 15–18, 1965, the Michigan Water Resources Commission agreed to implement the recommendations of the U.S. Department of Health, Education, and Welfare as contained in the "Report on Pollution of the Detroit River, Michigan Waters of Lake Erie, and their Tributaries."

The Maumee, Sandusky, Black, Rocky, and Cuyahoga Rivers and their tributaries, all of which are tributary to Lake Erie in Ohio, are grossly polluted. This pollution is caused by refuse, sewage, and sludge resulting in low dissolved oxygen, algal growths, bacterial contamination, and odors associated with polluted waters. This pollution interferes with water uses for municipal and industrial supply, recreation, fishing, and esthetic enjoyment. Specifically, phenols and nitrogenous compounds cause taste and odor problems in municipal water supplies. Other pollutants found in significant areas of these tributary rivers are oil, silt, and sediment.

Lake Erie and its tributary streams in the Pennsylvania basin are polluted by discharges of municipal and industrial wastes, combined sewer overflows, accidental spills from vessels and industries and wastes from Lake vessels, and land drainage. This pollution has caused taste and odor problems in domestic water supplies, bacterial contamination of bathing beaches, fish kills and algal growths. In addition, wastes which cause the receiving waters to foam, turn blackish-brown, and have a foul odor have interfered with recreation and esthetic enjoyment.

Lake Erie and its tributary streams in the western New York basin and the Erie-Niagara basin in New York are polluted by municipal and industrial wastes. Discharges of these wastes cause interferences with municipal and industrial supplies, recreation, fish and aquatic life. In addition, these wastes cause discoloration of the receiving waters, foul odors and algal growths.

*Recommendations*

Lake Erie is more than a valuable water resource; it is a priceless natural heritage. The present generation has an obligation to use it wisely and to preserve it for posterity. Each city and town, each industrial firm—each and every citizen of the basin—must bear a share of that responsibility.

Recommendations for abating water pollution interfering with water uses in Lake Erie and its tributaries will be made in two groups: general recommendations, covering the broad objectives of pollution abatement in the conference area, followed by specific recommendations in Parts 2 and 3 of this report, for the solution of particular problems. The specific recommendations are offered in addition to, and not in place of, the general recommendations.

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EXTRACTS FROM "REPORT ON POLLUTION OF THE DETROIT RIVER, MICHIGAN WATERS OF LAKE ERIE, AND THEIR TRIBUTARIES

(Prepared by the Public Health Service in April 1965)

CONCLUSIONS

Every day more than 1.6 billion gallons of waste water flow into the Detroit River—1.1 billion gallons from industry and 540 million gallons from municipal sewage. Huge quantities of waste products contained in this discharge change the Detroit River from a basically clean body of water at its head to a polluted one in its lower reaches. These waters are polluted bacteriologically, chemically, physically, and biologically, and contain excessive coliform densities as well as excessive quantities of phenols, iron, oil, ammonia, suspended solids, settleable solids, chlorides, nitrogen compound, and phosphates. Pollution of the Detroit River will become progressively worse unless effective action is taken immediately.

The City of Detroit's main sewage treatment plant, serving more than 90 percent of the people in the Project area, contributes 95 percent of the municipal waste to the Detroit River and is also the major source of suspended solids, phenols, oil, inorganic nitrogen, phosphates, and biochemical oxygen demand in the river. Overflow from combined sewers in Detroit and its suburbs, carrying both stormwater and raw sewage, contributes greatly to the degredation of the river.

In the upper Detroit River, the Great Lakes Steel Co. and the Allied Chemical Corp. are the major sources of industrial wastes. The Ford Motor Co. is the principal contributor of inorganic wastes to the Rouge River, and the Scott Paper Co. is the principal contributor of organic wastes. Downriver industries contributing significant quantities of wastes are the Great Lakes Steel Corp., the McLouth Steel Corporation, Pennsalt Chemical Corporation, and Wyandotte Chemical Corporation. On the Raisin River the leading polluters are the two Consolidated Paper Company mills, Monroe Paper Products Company, and the Union Bag-Camp Paper Company.

Other significant sources of pollution in the study area are overflows from combined sewers, municipal and industrial waste spills, and wastes from shorefront homes.

Pollution of the Detroit River causes interference with municipal water supply, recreation, fish and wildlife propagation, and navigation. Two municipal water intakes, particularly that of Wyandotte, are endangered by the high bacterial counts of the river, and the rising chloride levels indicate potential future problems for industrial water usage. In addition, high concentrations of phenols and ammonia at the Wyandotte water intake have interfered with municipal water treatment by causing taste and odor problems and reducing the effectiveness of chlorination. Excessive quantities of chlorine are needed to reduce bacteria to a safe level.

All forms of water contact sports in the lower Detroit River are hazardous. Declining levels of dissolved oxygen in the lower Detroit River as it enters Lake Erie are approaching the danger point, indicating trouble in the future unless appropriate remedial action is taken. Together with bottom sludge deposits, oils, and toxic materials, they threaten fish, migratory birds, and other wildlife. In order to maintain navigation, extensive annual dredging is required at the junction of the Detroit and Rouge Rivers and at the mouths of the Detroit and Raisin Rivers to remove deposits of suspended solids in large part originating in municipal and industrial waste discharges.

About 6 million pounds of waste products are discharged every day from U.S. industries and municipalities to the Detroit River. 20 million pounds of measured waste constituents are discharged every day from U.S. waters of the Detroit River to Michigan waters of Lake Erie. The Raisin River, grossly polluted at its mouth, also pollutes the Michigan waters of Lake Erie.

The Michigan waters of Lake Erie have two major zones of pollution—one in the vicinity of the mouth of the Detroit River, and one near the mouth of the Raisin River.

Bacteriological densities in the Lake from the mouth of the Detroit River to a point 2 or 3 miles south make the water unfit for recreational use; following heavy rainfall in the Detroit area, this zone is extended southward to Stony Point. The periodic contamination of Sterling State Park beaches, which are posted as unsafe for swimming, is caused by wastes from the Raisin River and septic tank drainage.

Concentrations of chlorides, metals toxic to fish life in minute concentrations, and suspended solids in the Lake portend future problems in various water uses. Composition of bottom organisms in the Detroit River changes from a pollution-sensitive population typically found in clean waters to a predominantly pollution-tolerant population in the lower River.

Pollution-stimulated algae growths have forced Monroe to move its water intake point to avoid unpleasant tastes and odors in the water, and algae blooms near the new intake again threaten to degrade Monroe's drinking water. Discharges of nutrients and organic wastes into the Michigan part of Lake Erie have speeded the enrichment of that portion of the Lake.

Water at Sterling State Park is erratically polluted, and this area occasionally had coliform counts exceeding 100,000 organisms per 100 ml. A standard frequently accepted as safe for recreation is 1,000 per 100 ml, and the recommendations in this report are based on that standard. The Raisin River was discovered to be the primary cause of this pollution; when Lake currents are northerly (40 to 45% of the time), polluted Raisin River water is carried directly to the beaches. When currents are southerly, polluted drainage from septic tanks reaches the Park. To improve water quality at Sterling State Park, these sources of pollution must be controlled.

Adverse effects of stormwater overflow on water quality were seen in all the waters studied by the Project. During and after heavy rainfall, sewage plants must bypass untreated wastes directly to the rivers, and this can occur on 33 to 45 days a year. The overflows averaged 8.2 hours and have lasted as long as 24 hours, and the detrimental effects from a single storm have lasted as long as 5 days. Bacteria in storm overflows often approached the densities found in raw sewage, with counts as high as 100 million per 100 ml. Storm-caused overflows alone are responsible for the discharge of 5 billion gallons of raw sewage to the Detroit River yearly.

While there is some evidence that water quality is improving, because of increased water uses damages are increasing, and unless remedial action is taken immediately the usefulness of the water resources of the Detroit area may be destroyed completely by pollution.

All municipal sewage treatment plants in the area currently practice primary treatment followed by chlorination. In order to protect water uses, municipal treatment facilities are to be provided capable of producing an effluent not to exceed:

1. Suspended solids concentration of 35 mg/1.
2. Settleable solids concentration of 5 mg/1.
3. Ammonia concentration of 2 mg/1.
4. Phenol concentration of 20 mg/1.
5. Oil concentration of 15 mg/1.
6. Biochemical oxygen demand of 20 mg/1.
7. Bacterial densities, monthly geometric mean, of 5000/100 ml.

It is recommended that all municipalities provide a minimum of secondary treatment plus adequate chlorination to maintain these standards.

Recommendations for abating pollution interfering with water use in the Detroit River and Michigan Lake Erie are made in two categories: general recommendations relating to the Project area, and specific improvements required at each waste source contributing to the polluted condition of the waters. In addition to these recommendations designed to abate existing pollution, the report points out many areas where additional improvement in water quality will aid in the prevention of future problems.

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EXTRACTS FROM "REPORT ON POLLUTION OF THE WATERS OF THE GRAND CALUMET RIVER, LITTLE CALUMET RIVER, CALUMET RIVER, LAKE MICHIGAN, WOLF LAKE AND THEIR TRIBUTARIES"

(Prepared by the Public Health Service in February, 1965)

I—SUMMARY AND CONCLUSIONS

On the basis of reports, surveys, or studies, in accordance with section 8 of the Federal Water Pollution Control Act (33 U.S.C. 466 et seq.), Secretary Anthony J. Celebrezze of the Department of Health, Education, and Welfare, on December 15, 1964 called a conference in the matter of pollution of the interstate waters of the Grand Calumet River, Little Calumet River, Calumet River, Lake Michigan, Wolf Lake and their tributaries (Indiana-Illinois).

The Calumet Area at the south end of Lake Michigan in Illinois and Indiana includes the Calumet River system and the affected waters of Lake Michigan. Although poorly drained, it lies astride a continental divide, with about 40 per cent of the area draining to the Illinois River and thence to the Mississippi River, and about 60 per cent of the area draining to Lake Michigan and the St. Lawrence River. Most of the streams and ditches are sluggish or stagnant, and some of the streams, particularly the Calumet River in Chicago, experience alternating directions of flow.

The western parts of the Little Calumet and Grand Calumet Rivers flow from Indiana into Illinois. Wolf Lake is an interstate lake lying on the Illinois-Indiana state line. The state line extends northward from the shoreline into Lake Michigan, passing within one-third mile of the mouth of the Calumet River in Chicago, and turns east at a point about 1½ miles north of the Calumet Harbor breakwater.

The currents in Lake Michigan are also subject to reversal of flow. Under most conditions the direction of flow is from Indiana waters to Illinois waters, but flow from Illinois to Indiana waters is also common.

The areas is highly industrialized, and the industries are expanding production rapidly. There are ten major steel mills, five petroleum refineries, and several chemical, paper, and food processing industries in the area.

Lake Michigan is used as a source of municipal water supply. The City of Chicago pumps about 1040 million gallons daily (mgd) and serves a population of about 4,400,000. The cities of Gary, Hammond, East Chicago, and Whiting in Indiana pump about 62 mgd and serve a population of about 375,000. Lake Michigan is also used as the major source of industrial process and cooling water in the area, and as a source of condenser water for power plants. Lake Michigan and its harbors in the area handle about 60 millions tons of cargo annually, of which three-fourths is iron ore and related materials for the steel industry.

Lake Michigan and Wolf Lake are heavily used for recreational activities such as swimming, boating, water skiing, and fishing. They also receive direct discharges of industrial wastes.

The Grand Calumet River is used to a minor extent as an industrial water source. Its main use is as a receiver of municipal and industrial wastes. The Indiana Harbor Canal is used extensively for navigation and as a receiver of industrial wastes. The waters of the Grand Calumet River and the Indiana Harbor Canal are unfit for any recreational activity.

The Calumet River and the navigable portion of the Little Calumet River are used for navigation, industrial water supplies, receipt of municipal and industrial wastes, and recreational boating. A large number of parks, golf courses, and forest preserves are located along the banks of the Little Calumet River. The Cook County Forest Preserve District has not developed picnic areas along the Little Calumet River because of its polluted condition.

Municipal sewage and industrial wastes, treated to varying degrees, are the principal pollutional materials discharged continuously into the waters of the Calumet Area. Other wastes discharged intermittently may have serious local effects or may cause temporary excessive pollution. Among these wastes are accidental spills from storage tanks and barges, combined sewer overflows, wastes from lake vessels, barge tows, and pleasure craft, and materials from dredging operations.

The total oxygen demand of municipal and industrial waste as discharged in the Calumet Area is about 1,150,000 population equivalent (PE) of which 80 per cent is discharged in the Lake Michigan Basin and 20 per cent is discharged in the Illinois River Basin. Seventy per cent of the waste discharged in the Illinois River Basin is from municipal sources and 30 per cent is from industrial sources. In contrast, only 5 per cent of the waste discharged in the Lake Michigan Basin is from municipal sources, and 95 per cent is from industrial sources.

The principal deficiencies in municipal waste disposal in the Calumet Area are the general lack of effluent disinfection, the prevalence of combined sewer systems that cause the discharge of untreated sewage during and after heavy rains, and the proliferation of small sewage treatment plants throughout the basin that discharge to ditches and small streams. These plants are so numerous, and the amount of dilution water so small, that nearly all streams are to some extent polluted.

Three steel plants that discharge wastes to the Grand Calumet River and the Indiana Harbor Canal are the most significant sources of wastes in the Lake Michigan Basin. Oil refineries and chemical plants are lesser, but still major, sources of wastes. The steel plants discharge coking wastes, blast furnace wastes, and rolling mill wastes. The chief identifiable constituents in these discharges are oxygen-demanding wastes, oily wastes, waste pickle liquor, phenolic materials, ammonia, cyanide, and suspended solids. The refineries discharge oxygen-demanding wastes, oily wastes, phenolic materials, and ammonia.

The steel plants in the Illinois River Basin have their coking wastes sewered and treated at the Calumet Plant of the Metropolitan Sanitary District of Great Chicago. The principal wastes discharged to the rivers from these plants are oily wastes, waste pickle liquor, and suspended solids. One steel plant discharges untreated sewage to the Little Calumet River in Illinois.

Biological studies (1961–63) indicate that all of the streams in the Calumet Area are polluted, differing only in degree and by nature of the pollutant. The Grand Calumet River is the worst of all as evidenced by the near-absence of bottom organisms. The Little Calumet and Calumet Rivers and the Indiana Harbor Canal are also severely degraded.

Steams in the Calumet Area are generally characterized by unsightly appearance, in the form of floating debris, oil, discoloration, and turbidity. Channel banks, structures, and boats acquire a black coating from oil or tarry substances. Malodorous conditions are prevalent and frequent. Along the shores of Lake Michigan, in Indiana and the southern shore in Illinois, the Lake waters are discolored by suspended and dissolved waste materials, in sharp contrast to the pleasing appearance of the rest of Lake Michigan.

The streams of the Calumet Area are grossly polluted by fecal contamination. Average colifoam densities on the Grand Calumet and Little Calumet Rivers where they cross the State line were in the order of 1 million per 100 ml, and average fecal streptococcus densities were 70,000 to 80,000 per 100 ml. Burns Ditch showed 120,000 coliform per 100 ml near Lake Michigan, and 1.7 million four miles inland. In the Indiana Harbor Canal coliform counts averaged 380,000 per 100 ml, and individual tests ranged up to 2.5 million. The Calumet River exhibited average coliform densities of 2,900 per 100 ml near its junction with Lake Michigan, increasing to 25,000 per 100 ml about three miles farther inland. Periodic reversals of flow in the Calumet River can contribute bacterial pollution in Lake Michigan. Bacterial pollution of the magnitudes indicated in Calumet Area Streams constitutes a threat to public health.

Critically-low dissolved oxygen concentrations exist generally throughout the streams of the Calumet Area. Nearly every sampling station showed zero dissolved oxygen at some time during field investigations.

The bottom of Lake Michigan in the Calumet and Chicago areas exhibits biological degradation caused by organic enrichment. Whereas in the clean bottom areas of Lake Michigan there are many kinds of organisms, with none predominating, this area exhibits only a few kinds. Sludgeworms and aquatic scuds are the most numerous, but bloodworms and fingernail clams are sometimes abundant. Of these, only the scud is sensitive to pollution. The number of pollution-tolerant organisms average 250 to 400 per square foot in the Calumet Area, and increase to 1000 per square foot off Chicago. The lesser numbers in the Calumet Area reflect inhibition by heavy settleable solids and toxic materials, whereas the less dense organic materials are carried by lake currents northward to the waters off Chicago. The kinds of organisms found in this area of Lake Michigan limit the desirable species of fish such as whitefish, lake trout, and yellow perch, and favor trash fish such as carp, buffalo, and suckers.

The deep waters of Lake Michigan generally contain less than one coliform organism per 100 ml. In contrast, the inshore waters of Lake Michigan in the Calumet Area often contain several thousand coliform organisms per 100 ml, indicating fecal contamination from the tributary area. Bathing beaches at Whiting, Hammond, and Chicago's Calumet Park, which lie between Indiana Harbor and the Calumet River, nearly always exhibit coliform densities greater than 1000 per 100 ml. Coliform densities greater than 10,000 are common at these beaches, and densities greater than 100,000 occur often at the Whiting and Hammond beaches.

Taste and odor producing materials, such as phenolic materials, are discharged to Lake Michigan from industries in Indiana, and interfere with municipal water supplies in Indiana and Illinois. It has been demonstrated that severe taste and odor problems at Indiana water treatment plants in January and March, 1963, followed a few days later by similar problems at Chicago, were associated with lake currents moving northwestward from the Indiana Harbor area toward Chicago. Likewise, large amounts of ammonia discharged to Lake Michigan in Indiana increase the cost and difficulty of municipal water treatment in Indiana and Illinois. In addition, this ammonia contributes to fertilization of Lake Michigan, which can cause prolific growths of algae and aquatic weeds that pile up onto beaches, clog water intakes, interfere with filter plant operations, and cause taste and odor problems in municipal water supplies.

Section IX of this report discusses corrective measures needed in the Calumet Area.

One company discharges industrial waste into Wolf Lake in Indiana, causing fish kills in a portion of the lake, and tainting the flesh of game fish in Wolf Lake.

There is no evidence of interstate pollution from the discharge of wastes to Lake Michigan via Burns Ditch. Burns Ditch has some effect on the contribution of nutrients in the south end of Lake Michigan, and contributes local bacterial pollution. The effects of increased development in this area bear careful watching.

Sewage and industrial wastes discharged to the Little Calumet River, Grand Calumet River, and Wolf Lake in Indiana cause pollution of these waters in Illinois. Sewage and industrial wastes discharged to the Calumet River System and Lake Michigan in Indiana cause pollution of the waters of Lake Michigan in Illinois, and sewage and industrial wastes discharged to the Calumet River System and Lake Michigan in Illinois cause pollution of Lake Michigan in Indiana. This pollution endangers the health or welfare of persons in a state other than that in which the discharges originate, and therefore is subject to abatement under the provisions of the Federal Water Pollution Control Act.

Mr. NELSON. Mr. President, the National Lakes Preservation Act which I am introducing is intended to protect the Great Lakes, other natural lakes, and reservoirs, from further damage and deterioration; make them accessible to the public for recreational and esthetic enjoyment; encourage and assist research in all aspects of lake and lake area phenomena; and accelerate the training of scientists in lake sciences.

It would establish a National Lake Areas System composed of federally, State, and locally owned and administered lake areas on the Great Lakes and other important lakes which have not as yet been completely spoiled by man's activities. These lake areas would be administered and developed primarily for the purposes of sport and commercial

fishing, wildlife conservation, outdoor recreation, and scenic beauty. Up to $255 million would be authorized for the establishment of the system through fiscal year 1969.

To determine what areas should be included in the system, the Secretary of the Interior would conduct a nationwide study, taking into consideration the scenic, recreational, and economic values of areas; their ecology, navigation, flood, and erosion problems; present and future uses of the areas; and ways of preserving and protecting them. He would also establish an advisory committee to make recommendations to him regarding the inclusion of areas in the system.

In making this study, consideration would be given to the Great Lakes, and other important lakes such as Lake Iliamna in Alaska; Lake Tahoe in California and Nevada; Lake Okeechobee in Florida; Kealepulu Lake in Hawaii; Bear Lake in Idaho and Utah; Lake Pontchartrain in Louisiana; Moosehead Lake in Maine; Lake Gogebic in Michigan; Lake-of-the-Woods in Minnesota; Flathead Lake in Montana; Lake Champlain in New York and Vermont; Lakes Oneida, Seneca, and Cayuga in New York; Upper Klamath Lake in Oregon; Reelfoot Lake in Tennessee; Great Salt Lake in Utah; Lake Washington in Washington; Lake Winnebago in Wisconsin; Yellowstone Lake in Wyoming; and the San Angelo and Twin Buttes Reservoirs in Texas.

On the basis of the nationwide study and the recommendations of the advisory committee, the Secretary would recommend Federal areas to be included in the System to the President, who would transmit them to Congress along with his own recommendations. Congress would then designate by law Federal lake areas, and the Secretary would acquire lands and waters for the areas by purchase, lease, donation, transfer, or exchange. He would also make rules and regulations governing public use of Federal areas.

State and local governments would be encouraged by the Federal Government to consider the designation of lake areas under Federal programs of financial assistance for land, wildlife, and recreation programs. Up to $50 million would be authorized each fiscal year for Federal agencies administering these programs to make additional grants for State and local lake areas. Although the approval of the Secretary of the Interior would be needed to include such areas in the System, the areas would be owned, administered, and developed by State and local governments.

The National Lake Areas System proposed in this bill is intended to help guard lake areas which have not completely deteriorated from further spoliation, and to insure that the public has access to our lakes for recreation and esthetic enjoyment. Additionally, the bill provides for programs of research to acquire the scientific knowledge needed to restore lake areas which have suffered spoliation, and to protect those which have so far escaped this fate.

The Secretary of the Interior would support and encourage programs of research by agencies at all levels of government, by universities and institutes, and by private organizations. Seventy-five million dollars would be authorized for this purpose each fiscal year. He would also arrange with universities and colleges for the training of specialists in the various lake sciences, and $35 million would be authorized each fiscal year for this purpose.

Research programs would be concerned with both the basic and applied aspects of the physical and social problems of lake areas. Particular emphasis would be placed on lake fertilization and eutrophication, and ways to reverse these processes and correct the damages they inflict. The need for research on this problem was emphasized by Secretary Udall in his letter to me:

> We need to develop a better understanding of chemical cycling, particularly with reference to phosphorous, nitrogen, and carbon compounds, which control delicate aquatic balances involved in such phenomena as algal blooms. This knowledge would be of particular value in identifying and, perhaps, counteracting pollution problems resulting from long-term accumulation of nitrogen, phosphorous, and other nutrients.

To carry out his responsibility for administering the act, the Secretary of the Interior would prepare rules and regulations, and establish the necessary laboratories, field stations, and other facilities. He would also coordinate lake research programs carried on by several Government agencies, and make agreements with public and private agencies for services and facilities, particularly vessels. For administering the act, $50 million would be authorized through fiscal year 1969, and $25 million for each fiscal year thereafter.

Mr. President, I ask unanimous consent that the full text of the National Lakes Preservation Act of 1966 be printed in the RECORD.

Mr. President, I ask unanimous consent that the bill I introduced this afternoon be referred to the Committee on Interior and Insular Affairs.

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

The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3833) to preserve, protect, develop, restore, and make accessible the lake areas of the Nation by establishing a National Lake Areas System and authorizing programs of lake and lake areas research, and for other purposes, introduced by Mr. NELSON (for himself and other Senators), was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 3833

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "National Lakes Preservation Act of 1966."

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. The Congress finds and declares that the Great Lakes and other lakes of the United States are rich in a variety of natural, commercial, recreational, and esthetic resources of incalculable value to the present and future development of the Nation; that the resources of these lakes are being damaged by pollution from commercial, urban, and agriculture installations and developments along their shores, and from vessels plying their waters; that the damage being inflicted on these lakes is rapidly becoming worse and may soon be permanent and irreversible in some cases; that there is a serious lack of knowledge regarding many aspects of natural phenomena in lakes and lake areas; and that the purposes of this Act therefore are to preserve, protect, develop, and restore the Great Lakes and other lakes of the United States; make accessible for the benefit of all the people selected parts of the Nation's lakes which are valuable for fishing, hunting, conservation, recreation, and scenic beauty; and establish, support, and encourage programs of lake and lake area research, and for the training of scientists in fields related to such research.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) the term "lake" means an inland manmade or natural body of fresh water and its sources which is standing and surrounded by land, flowing and occupying a substantial widening in the course of a river, or standing or flowing in a reservoir or impoundment in a natural or artificial basin; and

(b) the term "lake area" means an environmental system consisting of a lake and those transitional areas which are constantly influenced or affected by water from a lake such as, but not limited to, marshes, embayments, lagoons, inshore waters, channels, and stream and river estuaries.

TITLE I—NATIONAL LAKE AREAS SYSTEM

*Establishment of system*

SEC. 101. There is hereby established a National Lake Areas System (hereinafter referred to as the "System") composed of both Federally administered lake areas established in accordance with law enacted after the enactment of this Act, and lake areas administered by the States or their political subdivisions and designated as part of the System pursuant to section 106 with the approval of the Secretary of the Interior (hereinafter referred to as the "Secretary"). The System shall include lake areas so established or designated on the Great Lakes, and on other lakes of substantial size and national importance, which are (1) relatively unspoiled or undisturbed by the technological advances of man, including, but not limited to, pollutants, and (2) areas that are partially spoiled or disturbed by such advances but should be protected from further adverse effects.

*Study of lake areas*

SEC. 102. (a) The Secretary in consultation with the States and other Federal agencies, shall conduct a nationwide study of lake areas for the purpose of identifying areas which should, in the national interest, be included in the System. The Secretary shall in making such study consider, among other things, all the resource and scenic values of such areas, their economic and recreational potential, their ecology, navigation, flood and erosion control, the present and future urban, agricultural, and industrial effects on such areas, other uses of the lakes, and the most appropriate means or methods of preserving or protecting such areas. Particular attention shall be given to whether such areas should be acquired by the Secretary because of their national significance, or by the States or by local subdivisions thereof, and whether such areas may be protected adequately through local zoning laws or other methods without Federal land acquisition. Such study shall be coordinated with the nationwide outdoor recreation plan formulated or in preparation pursuant to

the Act of May 28, 1963 (77 Stat. 49), with any plan prepared and developed or in preparation pursuant to the Water Resources Planning Act (79 Stat. 244), and with statewide plans prepared or in preparation and found adequate pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897). The Secretary shall from time to time submit recommendations to the President for inclusion in the System as a Federal lake area of any lake area he deems appropriate pursuant to this Act, and the President shall submit to the Congress such recommendations together with his recommendations with respect thereto. Recommendations made by the Secretary shall be developed in consultation with the States and other interested Federal agencies. Each such recommendation shall be accompanied by (1) expressions of any views which the States and agencies may submit within ninety days after having been notified of the proposed recommendation, (2) a statement setting forth the probable effect of the recommended action on any comprehensive river basin plan that may have been adopted by Congress or that is serving as a guide for coordinating Federal programs in the basin wherein each lake area is located, and (3) in the absence of such a plan, a statement indicating the probable effect of the recommended action on alternative beneficial uses of the resources of such lake area.

(b) In making the study provided for in this section, the Secretary shall give consideration to, among others, the lake areas including the following lakes: the Great Lakes; Lake Iliamna in Alaska; Lake Tahoe in California and Nevada; Lake Okeechobee in Florida; Kealepulu Lake in Hawaii; Bear Lake in Idaho and Utah; Lake Pontchartrain in Louisiana; Moosehead Lake in Maine; Lake Gogebic in Michigan; Lake-of-the-Woods in Minnesota; Flathead Lake in Montana; Lake Champlain in New York and Vermont; Lakes Oneida, Seneca and and Cayuga in New York; Upper Klamath Lake in Oregon; Reelfoot Lake in Tennessee; Great Salt Lake in Utah; Lake Washington in Washington; Lake Winnebago in Wisconsin; Yellowstone Lake in Wyoming; and the San Angelo and Twin Buttes Reservoirs in Texas.

(c) The Secretary shall establish an advisory committee whose function shall be to consider each lake area proposed to be included in the System pursuant to this section and section 106, and to make recommendations thereon to the Secretary. In addition to the other members of the committee selected by the Secretary, there shall be on such committee at the time action is taken with respect to any area at least two persons who shall represent the State wherein such area is located.

*Land acquisition*

SEC. 103. (a) The Secretary may acquire lands and waters or interests therein within any Federal lake area authorized by Act of Congress to be included within the System by purchase with appropriated or donated funds or by lease, donation, or exchange, except that he shall not so acquire with appropriated funds any lands and waters or interests therein owned by a State or by any political subdivision thereof. The Secretary may also accept title to any non-Federal property in such an area and in exchange therefor may convey to the grantor of such property any federally owned property under his jurisdiction which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(b) Any lands, waters, or interests therein which are acquired pursuant to this section shall be administered, managed, and developed primarily for the purposes of sport and commercial fishing, wildlife conservation, outdoor recreation, and scenic beauty, and for such other purposes as the Secretary determines are compatible with the purposes of this Act.

(c) Any Federal land located within a Federal lake area in the System may, with the consent of the head of the agency having jurisdiction thereof, be transferred to the Secretary for administration as part of said area.

(d) The States shall be encouraged to cooperate in the planning and in the management, pursuant to cooperative agreements, of Federal lake areas included in the System.

*Regulations governing use of Federal areas*

SEC. 104. (a) The Secretary is authorized to issue regulations governing the public use of Federal lake areas in the System administered by him. Such regulations shall be in accordance with the purposes of this Act.

(b) Any person who violates or fails to comply with any regulation issued pursuant to this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $500 or be imprisoned not more than six months, or both.

*Other Federal agencies*

SEC. 105. In all planning for the use and development of water and related land resources, consideration shall be given by all Federal agencies involved to lake areas which should be included in the System, and all project plan reports submitted to the Congress shall discuss any such potential and make recommendations thereon. The Secretary shall make specific studies and investigations to determine which lake areas within the United States shall be evaluated for such purpose in planning reports by all Federal agencies on potential alternative uses of the water and related land resources involved.

*State designated lake areas*

SEC. 106. (a) The Secretary in cooperation with other Federal agencies shall encourage States and local subdivisions thereof to consider, in their comprehensive planning and proposals for financial assistance under the Act of September 2, 1937 (50 Stat. 917; 16 U.S.C. 669 et seq.), relating to Federal aid in wildlife restoration, the Act of August 9, 1950 (64 Stat. 430; 16 U.S.C. 777 et seq.), relating to Federal aid in fish restoration, the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 1–4 et seq.), the Commercial Fisheries Research and Development Act of 1964 (78 Stat. 197; 16 U.S.C. 779 et seq.), and under title VII of the Housing Act of 1961 (75 Stat. 183; 42 U.S.C. 1500 et seq.), the need for and possibility of establishing lake areas on lands and waters owned or acquired and administered by them as part of the System. Any such area may be designated as a part of the System by the State in which such area is located, with the approval of the Secretary after determining that such designation is within the purposes of this Act. When approving such areas to be included in the System, the Secretary shall establish such terms and conditions as he deems desirable to insure the permanent protection of such designated areas. The lands or interests therein of any lake area included in the System by a State shall not be disposed of by sale, lease, donation, or exchange without the prior approval of the Secretary.

(b) There is authorized to be appropriated not to exceed $50,000,000 in any fiscal year to the Secretary for the purpose of transferring such amounts as he deems appropriate to Federal departments and agencies administering the laws cited in subsection (a) in order that additional grants pursuant to such laws may be made for the purposes of this section.

*State jurisdiction*

SEC. 107. (a) Nothing in this Act shall restrict or extend such jurisdiction as the States now have with respect to water rights and laws, nor be construed as an express or implied claim or denial on the part of the United States as to exemption from State water rights or laws.

(b) Nothing in this Act shall affect the jurisdiction or responsibilities of the States under other provisions of law with respect to fish and wildlife.

*Authorization*

SEC. 108. For the purposes of this title, other than section 106(b), there are hereby authorized to be appropriated $15,000,000 for the fiscal year beginning July 1, 1966; $30,000,000 for the fiscal year beginning July 1, 1967; $60,000,000 for the fiscal year beginning July 1, 1968; and thereafter such sums as are necessary for the implementation of the program herein authorized.

TITLE II—LAKE AND LAKE AREAS RESEARCH

SEC. 201. (a) The Secretary shall support, assist, and encourage programs, including grants and contracts, of lake and lake area research, investigation, and experiments of both a basic and practical nature by Federal, State, interstate, and local government agencies; by universities, colleges, and research institutes; and by private organizations. Such research, investigation, and experiments may include, without being limited to, aspects of the hydrologic cycle; supply and demand for water; conservation and best use of available supplies of water; methods of increasing such supplies; preservation and restoration of the quality of water supplies; and economic, legal, social, engineering, recreational, biological, geographical, ecological, and other aspects of lake and lake area problems, having due regard to the varying conditions and needs of the respective States, and to water research projects being conducted by agencies of the Federal and State governments.

(b) The Secretary, in conjunction with the programs authorized by the preceding section, shall encourage, assist, and establish programs, including grants and contracts, for research, investigations, and experiments with respect to fertilization, eutrophication, and related processes in lakes. Such research, investigations, and experiments shall extend not only to basic causes, processes, and effects, but shall include in addition methods and processes for reducing and eliminating algal growths from lakes, and for removing nutrients of various kinds from effluents, run-off water, ground water, and receiving waters.

(c) There are hereby authorized to be appropriated for the purposes of this section $75,000,000 for the fiscal year beginning July 1, 1966, and for each succeeding fiscal year.

*Research and training*

SEC. 202. (a) The Secretary is authorized to arrange, through grants or contracts, with institutions of higher education for—

(1) fellowships or other training to provide graduate study for individuals in such fields as are appropriate and necessary for the purposes of this Act, including appropriate stipends and allowances for travel, subsistence, and other expenses of such individuals and their dependents; and

(2) establishing or improving programs for advanced education and research in such fields, including costs of construction or alteration of necessary facilities for such programs and necessary equipment.

(b) There is authorized to be appropriated $35,000,000, for the fiscal year beginning July 1, 1966, and for each succeeding fiscal year for the purposes of this section.

*Administration*

SEC. 203. (a) The Secretary shall, after consultation with other Federal Departments

and agencies administering laws affecting the provisions of this Act, establish such rules and regulations as may be necessary to (1) carry out the provisions of this Act, and (2) coordinate programs pursuant to this Act with the provisions of such laws. The Secretary shall also make recommendations to such other Federal Departments and agencies for any such coordinating action by them which will promote the purposes of this Act.

(b) For the purpose of carrying out the provisions of this Act the Secretary may acquire, establish, or construct such laboratories, field stations, monitoring stations, property, (including land) equipment, and other facilities as may be necessary.

(c) In administering the provisions of this Act, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution, in accordance with agreements between the Secretary and the head thereof.

(d) There is authorized to be appropriated for administering the provisions of this Act, in addition to other amounts authorized in this Act, $10,000,000 for the fiscal year beginning July 1, 1966; $15,000,000 for the fiscal year beginning July 1, 1967; $25,000,000 for the fiscal year beginning July 1, 1968, and for each succeeding fiscal year such amounts as may be necessary.

## ADDITIONAL COSPONSOR OF BILL

Mr. SPARKMAN. Mr. President, at the next printing of S. 3557, to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of business development corporations, I ask unanimous consent that the name of the senior Senator from North Carolina [Mr. ERVIN] be added as a cosponsor.

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

## EXTENSION OF TIME FOR BILL TO BE HELD

Mr. JAVITS. Mr. President, I ask unanimous consent that the Foreign Banking bill (S. 3765) which is at the desk, may continue to lie at the desk for additional cosponsors until Monday, September 26, 1966.

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

## NOTICE OF HEARINGS ON NOMINATIONS OF FRANK A. KAUFMAN AND ALEXANDER HARVEY II, OF MARYLAND, TO BE U.S. DISTRICT JUDGES

Mr. TYDINGS. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that public hearings have been scheduled for Wednesday, September 21, 1966, at 10 a.m., in room 2228 New Senate Office Building, on the following nominations:

Frank A. Kaufman, of Maryland, to be U.S. district judge, District of Maryland, to fill a new position created by Public Law 89-372, approved March 18, 1966.

Alexander Harvey II, of Maryland, to be U.S. district judge, District of Maryland, vice Harrison L. Winter, elevated.

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

The subcommittee consists of the Senator from North Dakota [Mr. BURDICK], the Senator from Pennsylvania [Mr. SCOTT], and myself, as chairman.

## NOTICE OF RESCHEDULING OF HEARINGS ON ELECTED GOVERNOR BILLS FOR GUAM AND THE VIRGIN ISLANDS

Mr. JACKSON. Mr. President, with reference to the hearings on H.R. 11775 and H.R. 11777, the elected Governor bills for Guam and the Virgin Islands, which I previously announced had been scheduled for September 22 by the Territories Subcommittee of the Committee on Interior and Insular Affairs, it has now become necessary to reschedule these proceedings for Friday, September 23, at 10 a.m., in our committee hearing room.

All those who may wish to express their views on this legislation are again asked to contact the committee staff.

## EXECUTIVE SESSION

On request of Mr. MANSFIELD, and by unanimous consent, the Senate proceeded to consider executive business.

## EXECUTIVE REPORTS OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. CLARK, from the Committee on Labor and Public Welfare:

Stephen N. Shulman, of Virginia, to be a member of the Equal Employment Opportunity Commission.

By Mr. HILL, from the Committee on Labor and Public Welfare:

Howard G. Gamser, of New York, to be a member of the National Mediation Board.

Mr. HILL. Mr. President, from the Committee on Labor and Public Welfare, I report favorably sundry nominations in the Public Health Service. Since these names have previously appeared in the CONGRESSIONAL RECORD, in order to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

The nominations, ordered to lie on the desk, are as follows:

George E. Goodman, and sundry other candidates, for personnel action in the Public Health Service.

The ACTING PRESIDENT pro tempore. If there be no further reports of committees, the nominations on the Executive Calendar will be stated.

## ATOMIC ENERGY AGENCY

The legislative clerk proceeded to read sundry nominations to the Atomic Energy Agency.

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

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

## POST OFFICE DEPARTMENT

The legislative clerk read the nomination of Leo S. Packer, of New York, to be Assistant Postmaster General.

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

## FEDERAL HOME LOAN BANK BOARD

The legislative clerk read the nomination of Robert L. Rand, of California, to be a member of the Federal Home Loan Bank Board.

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

## POSTMASTERS

The legislative clerk proceeded to read sundry nominations to the position of postmaster.

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

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

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

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

## LEGISLATIVE SESSION

On request of Mr. MANSFIELD, and by unanimous consent, the Senate resumed the consideration of legislative business.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business?

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

## CIVIL RIGHTS

Mr. HART. Mr. President, today we approach a vote on cloture in an effort to permit the Senate to work its will on the civil rights bill of 1966. I hope very much as the roll is called that we will establish a will on the part of the majority of this body—at least a majority—to achieve that end.

The constitutionality of the bill has never been a question in my mind, but I am certainly happy to have that opinion confirmed by scholars who are far more authoritative than I am.

Mr. President, I offer, and I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks, a letter addressed to me by Prof. Soia Mentschikoff, professor of law, the University of Chicago Law School, dated September 14, 1966, attaching a letter dated August 29, 1966, addressed to me, signed by 26 distinguished professors of law at many of the outstanding law schools of this country.

The opinion analyzes title IV of the bill, the so-called housing section, and concludes without reservation that the title is constitutional.

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

(See exhibit 1.)

Mr. HART. Additionally, Mr. President, I ask unanimous consent that there be printed in the RECORD an editorial which appeared in the New York Times of today urging an affirmative vote on cloture, and citing a letter which is published on the editorial page of the New York Times of this morning from Archibald Cox. It will be remembered that Archibald Cox served as Solicitor General of the United States from 1961 to 1964, and is currently Williston professor of law at the Harvard Law School. Here again, the opinion, without reservation, supports the constitutionality of the title brought into question over these weeks of informal debate and discussion that we have had in this body.

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

(See exhibits 2 and 3.)

EXHIBIT 1

THE UNIVERSITY OF CHICAGO, THE LAW SCHOOL,
*Chicago, Ill., September 14, 1966.*

HON. PHILIP A. HART,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HART: Each of the teachers of constitutional or public law whose name appears at the end of the enclosed letter has authorized me in writing to include him as a signer. There would be more signatures, but a number of teachers who would undoubtedly join have been and remain away from their offices on vacation. As I hear from additional people, I will forward their names to you.

Sincerely yours,

SOIA MENTSCHIKOFF,
*Professor of Law.*

Enclosure.

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AUGUST 29, 1966.

HON. PHILIP A. HART,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HART: The undersigned are teachers of constitutional or public law in law schools located in various sections of the country. Since the introduction last May of the proposed "Civil Rights Act of 1966" (H.R. 14765, S. 3296), which in Title IV would ban discrimination on account of race, color, religion, or national origin in the sale, rental and financing of residential housing, we have followed with interest the debate over the constitutionality of the housing provisions. It is our opinion that Title IV is constitutional, that authority for its enactment can be found in both the Commerce Clause and Section 5 of the Fourteenth Amendment as recently construed by the Supreme Court, and that neither the Due Process Clause nor any other provision of the Constitution forbids it.*

In the hearing before the Senate Subcommittee on Constitutional Rights and Subcommittee Number 5 of the House Judiciary Committee, facts were presented tending to show, and on the basis of which the Congress should reasonably find, that—

When persons are prevented from buying or renting housing because of their race, color, religion or national origin, the amount of housing being sold or rented, and therefore the amount being constructed, is reduced, which in turn significantly reduces the quantity of building materials moving across state lines;

Lenders of funds for residential housing construction and rehabilitation are frequently located outside the state where the construction and rehabilitation takes place, and the interstate flow of such financing is impeded by discriminatory practices; and

Businesses of all kinds rely importantly on the movement of labor from state to state, and that movement, too, is impeded, especially with respect to skilled and white collar employees, when adequate housing is denied because of race, color, religion or national origin.

We believe that if Congress were to conclude that these and other effects of discrimination on interstate commerce justify the enactment of Title IV, the courts would defer to that Congressional judgment and sustain the statute. That result seems to us to follow from *Katzenbach* v. *McClung*, 379 U.S. 294, 303–304 (1964), where the Court in upholding the validity of the public accommodations sections of the 1964 Act said:

". . . Congress has determined for itself that refusals of service to Negroes have imposed burdens both upon the interstate flow of food and upon the movement of products generally. Of course, the mere fact that Congress has said when particular activity shall be deemed to affect commerce does not preclude further examination by this Court. But where we find that the legislators, in light of the facts and testimony before them, have a rational basis for finding a chosen regulatory scheme necessary to the protection of commerce, our investigation is at an end."

We also believe that Section 5 of the Fourteenth Amendment provides additional support for Title IV. We concede that a racially discriminatory refusal to sell or rent a dwelling to a Negro would not be found by the courts to violate the Fourteenth Amendment standing alone; but the Supreme Court has held that the power of Congress to implement the Amendment is not restricted to doing only what the courts would do in the absence of federal legislation. In *Morgan* v. *Katzenbach*, 384 U.S. 641 (1966), the court considered and rejected the argument (made with respect to the provision of the Voting Rights Act of 1965 banning New York's English-language literacy test) that the federal law "cannot be sustained as appropriate legislation to enforce the Equal Protection Clause unless the judiciary decides—even with the guidance of a congressional judgment—that the application of the English literacy requirement prohibited by the federal law is forbidden by the Equal Protection Clause itself. We disagree. A construction of § 5 that would require a judicial determination that the enforcement of the state law precluded by Congress violated the Amendment, as a condition of sustaining the congressional enactment, would depreciate both the congressional resourcefulness and congressional responsibility for implementing the amendment."

On this reasoning the Court said the question before it was whether, "Without regard to whether the judiciary would find that the Equal Protection Clause itself nullifies New York's English literacy requirement as so applied, . . . Congress [could] prohibit the enforcement of the state law by legislating under § 5 of the Fourteenth Amendment." The question was answered in the affirmative.

Thus, we believe that Congress can properly consider whether it should exercise its power under the Amendment to eliminate housing discrimination where there is evidence showing that in the past such discrimination has been fostered by state laws and state enforcement of racially restrictive covenants and even by policies of federal housing agencies—actions which Congress might reasonably believe so fixed housing patterns that the effects are felt to this day. If Congress so concluded it would not matter that the title would reach private conduct in uprooting the effects of past governmental action. See *Morgan* v. *Katzenbach, supra; United States* v. *Guest*, 383 U.S. 745; *Burton* v. *Wilmington Parking Authority*, 365 U.S. 715; *Evans* v. *Newton*, 382 U.S. 296.

Some have argued that Title IV would unconstitutionally deprive owners of their property without due process of law, but there is no merit to this objection. See *Atlanta Motel* v. *United States*, 379, 241, 258-560 (1964), where precisely the same point urged against the 1964 Act was rejected by the Court. See also *Bob-Lo Excursion Co.* v. *Michigan*, 333 U.S. 28, 34 & n. 12 (1948); *Massachusetts Commission* v. *Colangelo*, 182 N.E. 2d 595; *Burks* v. *Poppy Const. Co.*, 57 Cal. 2d 463, 20 Cal. Rep. 609, 370 P. 2d 313; *Colorado Commission* v. *Case*, 151 Colo. 235, 380 P. 2d 34; *Levitt & Sons* v. *Division Against Discrimination*, 31 N.J. 514, 158 A. 2d 177, *appeal* dismissed, 363 U.S. 418; *Jones* v. *Haridor Realty Co.*, 37 N.J. 384, 181 A. 2d 481.

It is, therefore, our conclusion that the Congress is free to consider whether to enact Title IV as a matter of policy, confident that it is constitutional.

Sincerely,

Robert F. Drinan, S.J. (Dean), Boston College Law School; Ira M. Heyman (Dean), Sanford H. Kadish, University of California School of Law (Berkeley); Geoffrey C. Harzard, Philip B. Kurland, Soia Mentschikoff, University of Chicago Law School; Louis Lusky, Telford Taylor, Columbia University School of Law; Melvin G. Shimf, William W. Van Alstyne, Duke University School of Law; Fletcher N. Baldwin, Jr., Stanley K. Laughlin, Jr., University of Florida College of Law; Jefferson B. Fordham (Dean), John Honnold, University of Pennsylvania Law School; Paul A. Freund, Harvard University Law School; Lawrence R. Velvel, Paul Wilson, University of Kansas School of Law; William B. Lockhart (Dean), University of Minnesota Law School; Ivan C. Rutledge (Dean), Ohio State University College of Law; Samuel D. Thurman (Dean), University of Utah College of Law; Donald A. Giannella, Harold Gill Rauschlein (Dean), Villanova University School of Law; Robert O. Dawson, Jules B. Gerard, Hiram H. Lesar (Dean), Frank W. Miller, Washington University School of Law.

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EXHIBIT 2

[From the New York Times, Sept. 14, 1966]

THE SENATE VOTES

The Senate has an obligation today to do justice for the Southern Negro. The clamor about "black power" does not touch the real

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*We understand that the bill was amended to add to the forbidden grounds of discrimination, "the number of children or the age of such children." We express no opinion on the constitutionality of the amendment.

issue, and neither does the outcry about the rights of property owners.

The fate of the Southern Negro is the heart of the matter. It is of him that the Senators should think as they cast their votes on the closure resolution in behalf of the civil rights bill. While it is unlikely that the Senate will want to limit debate at this early stage, a substantial majority in favor of closure would demonstrate that the Senate is determined to act on the bill this year.

The pending bill, like its four predecessor measures dating back to 1957, is essentially a bill for the relief of the Southern Negro. Shortchanged by society from birth, educated in inferior schools, denied equal job opportunities, pressured to stay away from the polls, and often brutally intimidated by the police, he has still managed to rise in the past decade to new dignity and confidence. After two and one-half centuries of slavery and another century of segregation and discrimination, the Negro is at last breaking the fetters of second-class citizenship and asserting his just claim to equality. The Senate has it within its power to assist him in rectifying ancient wrongs—or to continue turning its back upon him.

The principal section of this bill would reform the selection of juries in Federal and state courts in the South where Negroes have not been fully equal before the law. Another major provision of the bill would enable the Federal Government to act more effectively in punishing crimes of violence against persons exercising their constitutional rights.

The open-housing section of the bill has pre-empted public attention, but since the House amended it to exclude the owners of one-family houses and their brokers, it is substantively not significant. Symbolically, it is important because it asserts—if only within limited scope—the principle of equality of opportunity in the purchase and rental of housing. The constitutional argument against enacting this principle into law carries no weight. As former Solicitor General Archibald Cox points out in a letter printed on this page today, the Supreme Court, even if it accepted Senator DIRKSEN's narrow interpretation of the commerce clause, could still sustain the open-housing provision as a valid exercise of the power of Congress to enforce the Fourteenth Amendment.

Equality is the issue—equality before the law in courtrooms and jury rooms, equal protection of the law against violence and intimidation, equality of opportunity in the housing market. There is no reason for the Senate to draw back from that principle now; there is every reason for it to push forward its legislative labors of the past decade in behalf of justice and equality for Negroes.

EXHIBIT 3

[From the New York Times, Sept. 14, 1966]

CONSTITUTIONALITY OF CIVIL RIGHTS BILL

*The writer, Williston Professor of Law at Harvard, was Solicitor General of the United States,* 1961–65.

To the EDITOR:

Six months ago there was a plausible legal foundation for the argument that Congress lacks constitutional authority to prohibit racial discrimination in the sale or leasing of private housing. Today the objection is untenable. [Editorial Sept. 8 "Again the Filibuster"]

Three Supreme Court decisions rendered last spring now show that its enactment would be a valid exercise of the power of Congress to enforce the Fourteenth Amendment. Senator DIRKSEN therefore has a sound basis for revising his position without shifting ground with respect to the commerce clause.

In South Carolina v. Katzenbach and again in Katzenbach v. Morgan the Supreme Court held that Congress may use any rational means to effectuate constitutional prohibitions in the Fourteenth and Fifteenth Amendments, even though the immediate subject matter of the legislation (e.g., private housing) is otherwise within the reserved powers of the states.

The Fourteenth Amendment undeniably prohibits racial discrimination by a state in furnishing public services, such as fire and police protection, education and public welfare. Negro children who are confined to black ghettos are denied the cultural and economic environment which Congress could well find essential to the state's satisfying its constitutional duty to provide them with equal educational opportunity, even though *de facto* school segregation is not unconstitutional per se.

EQUALITY LACKING

Negroes in areas like Harlem and Watts do not enjoy equality of fire and police protection, or equal access to the courts and sundry other state services. Prohibiting private discrimination in the sale and leasing of private housing would facilitate the breakup of the ghettos. It is therefore a rational means of eliminating unconstitutional discrimination in the state's provision of public services.

Katzenbach v. Morgan is precedent for the reasoning. The Court held that Congress may authorize Puerto Ricans literate in Spanish to vote in state elections, even though the New York law requiring English literacy did not itself violate the Fourteenth Amendment, because enabling them to vote was a rational means of bringing about the provision of equal public services.

The open housing bill would likewise be a rational means of bringing about state provision of equal public services. The bill would regulate private persons rather than state voting requirements, but that distinction is immaterial under United States v. Guest, where six justices indicated that Congress has power to deal with private action which interferes with the enforcement of Fourteenth Amendment rights.

The Guest case supplies another ground for sustaining the bill. The Thirteenth and Fourteenth Amendments guarantee Negroes the legal capacity to own, buy and sell property equally with whites. The practical enjoyment of the constitutional right is defeated by any communitywide custom of refusing to sell or lease to Negroes, even though the legal right survives conceptually, especially when the custom is effectuated by an understanding among real estate brokers.

RIGHT TO OWN PROPERTY

The Guest opinions hold there is Congressional power to deal with private conspiracies to interfere with enjoyment of constitutional rights under the equal protection clause.

Although they deal with the use of state facilities, such as schools, parks and golf courses, there is no basis for drawing a constitutional distinction between preventing interference with the equal enjoyment of such facilities and removing obstacles to the equal enjoyment of the legal right to own property. Nor can it be supposed that a conspiracy is constitutionally required.

When it decided these cases the Court cannot have been unmindful of the debate over the constitutionality of the proposed fair housing legislation. The opinions show that the legislation is constitutional without regard to the far more debatable power of Congress to enact the measure as a regulation of interstate commerce.

ARCHIBALD COX.

CAMBRIDGE, MASS., *Sept. 9, 1966.*

*An editorial on this subject appears today.*

## CLOTURE ON UNBORN NONFILIBUSTER

Mr. ERVIN. Mr. President, I briefly discussed H.R. 14765 during the morning hour last week and noted that the times are out of joint. Now it appears that the Senate is out of joint as well.

When I entered the Senate Chamber on Monday, I felt as though I had stepped through the looking glass. After only 1 hour of debate, it was announced that what is reputed to be the greatest deliberative body in the world would be asked to gag itself. Today, we will vote on that resolution; and I trust that it will be defeated overwhelmingly.

We have been reminded constantly by the press that the cloture petition is on the motion to call up and not on the merits of the bill itself. In the same breath, however, we are also told that a vote against cloture will be considered a vote against the bill. But by whatever failure of logic these two conclusions are simultaneously reached, the fact remains that neither one of these is the real issue before the Senate. That issue is the integrity of the Senate itself.

The day cloture can be invoked so cavalierly upon a minority by a majority, will be the day we turn our backs on extended debate, our greatest bulwark against legislative tyranny, and one of our most important guardians of liberty. On more than one occasion, the threat of prolonged debate has prevented the enactment of unwise or unconstitutional legislation. On many occasions such debate by a minority has educated the country to the evils of unjust legislation, evils which, exposed in debate, were either amended out of the bill or spelled death for the bill. It has been used as often by what the press of the day called liberals as by those called conservatives. And I know of no occasion when it was used that the country suffered because of it.

Today's petition is unique in Senate history, because it was filed before debate began. In effect, it is an attempt to gag an unborn nonfilibuster. During the morning hour on September 6, the distinguished Senator from Michigan [Mr. HART] and the distinguished Senator from New York [Mr. JAVITS] gave brief remarks outlining the legislative history of the bill, stating they liked the bill and that it was needed. They did not say why. With equal brevity, I also gave a morning hour statement placing the legislative history of the bill in proper context and opposing the motion to call it up. I said at that time that I intended to present later and in more detail my opposition to the immediate consideration of the bill. As a matter of fact, I hope to begin my analysis today with title I. However, no rebuttal has yet been made even to my brief remarks of last Tuesday. Not a mumbling word was said to rebut the one speech in opposition which came last Thursday. Indeed, prior to filing the cloture petition, not a single proponent has uttered a single syllable in defense of the motion to call up the bill since the moment that motion was made. There has been so little interest in the bill, that on a majority of occasions a quorum could not even be rounded up to come into the Chamber to take a look at it.

Uncharacteristic of civil rights advocates, they have not bothered to reply to the opposition even in the press.

No one has yet said why we must rush titles I and II through before hearing the comments of the Judicial Conference Committee on the Operation of the Jury System which is at this moment considering the question.

No one has yet told me what title III means, much less why we should take it up without hearings.

No one has yet said why we should consider the House version of title IV which almost no one prefers to the Senate version, and on which no hearings have been held.

It is said that the premature cloture petition was filed so that we might gage the bill's popularity. I submit, however, that rule XXII was never intended to be a Senate version of the Gallup poll. And to use the rule in this fashion is to play a dangerous game, indeed.

What if cloture is invoked to the surprise of everyone? The Senate will be left to vote on the motion without a moment of meaningful consideration; if this were a cloture petition on a bill, final passage and all proposed amendments would be voted on in complete ignorance of the merits. Congress has never legislated well under the gun.

Furthermore, such a test of sentiment by use of rule XXII is unnecessary. Any Senator is happy to tell his constituents, his party leaders, or the press how he stands on any bill before the Senate. I am opposed to the civil rights bill, in the event anyone has not heard.

I know of no Senator who has refused to take a stand. It would seem that for the last several months, the national pastime has been the hourly taking of the distinguished minority leader's temperature by the administration and by the press. Yet during all this time, that temperature has remained constant—Senator DIRKSEN's temperature has refused to rise with the heat of the pressures brought to bear upon him. He has been steadfast in his opposition to this legislation. I do not see that his mind can be changed by imposition of the gag rule.

At the same time, I have not noticed that the proponents are afraid to own up to their support of the bill.

As for those who may not yet have decided, cloture would force them to decide without the benefit of the facts.

The sentiment of the Senate can be judged easily—by asking each Senator. The sentiment of the country has long since been clear, for in every poll and in every referendum to which it has been put, open occupancy has been defeated. I have received approximately 9,500 letters opposed to the bill and 200 in favor, and I understand that the mail of most other Senators has been about the same.

Even if we were mistakenly to assume that rule XXII should be used as a polling device, what would it mean in this instance? Only that a certain number of Senators voting without the benefit of the facts support it and a certain number, also acting in an intellectual vacuum, oppose it. There are but nine Members of the Senate who sit on the Constitutional Rights Subcommittee, and with the exception of three members of the full Judiciary Committee who also sat in on the hearings, they are the only ones who have intimate knowledge of the bill's provision. A cloture vote at this point can prove only what a majority of the Senate feels, not in its wisdom, but in its ignorance. It may be that a majority of the Senate would favor calling up the bill, but they are no more secure in their position today than they were a week ago. The petition might just as well have been filed the moment the motion was made, for there is no more wisdom in the Senate on this issue now than there was then.

Mr. President, I ask that every Senator give careful consideration to a vote which could establish a tragic precedent. Respect for the institution, respect for the spirit of the rules, and respect for the freedom those rules are meant to protect, demand that the resolution be rejected.

## ORDER OF BUSINESS

Mr. STENNIS. I ask unanimous consent that I may be recognized during the morning hour for 5 minutes in addition to the regular 3 minutes that I would be allowed.

The PRESIDING OFFICER (Mr. BYRD of Virginia in the chair). Without objection, it is so ordered.

## CIVIL RIGHTS

Mr. STENNIS. Mr. President, I rise to address the Senate at this particular time because of a very strong feeling, as well as a very strong sense of duty, to say something, even though only limited time is available because of the filing of the cloture petition, with reference to this bill as reflected in title I, which has to do with a selection of Federal juries, and title II, which has to do with juries and State courts.

I emphasize that I necessarily have to be brief, and that is one of my main points: Even though these titles are far-reaching in effect, and even though title I virtually repeals all existing law as to jury selections in Federal courts throughout the Nation, there barely has been any consideration given to the provisions of title I.

Such far-reaching proposals usually receive a most minute examination by the Judicial Conference, and the pros and cons are discussed back and forth for months or even years by outstanding members of the bar of the Nation, by the American Bar Association committees, and others, but all of these safeguards and considerations are virtually totally absent in this case.

This question arose in the convention of the American Bar Association. It was very apparent that title I was going to get into serious trouble. I remember the overnight jet flight of the Attorney General of the United States to the convention to try to put the fire out. But there was no real consideration of the subject or a minute examination of it, and there cannot be after an association of that kind has already assembled. There is no time then for critical examination and exchange of views.

I submit that it is downright ridiculous, in this frenzied and emotional atmosphere of civil rights demands, to enact in one sweep, without substantial amendment, any law that might be proposed by capable men in the Department of Justice for one sole purpose.

I do not believe those who are marching in the streets inciting people to riot in our Nation are any more irresponsible than Congress would be if we pass such a law, which goes to the vital jury system, without any more consideration than this bill is being given and certainly without the fullest examination of content being given by many here who are both Members of Congress and members of the bar.

I approach this matter—if the personal reference will be pardoned—as one who for many years carried out the responsibilities of a trial judge in supervising the selection of juries in all felony cases and civil cases in a court of unlimited jurisdiction. I know firsthand some of the problems that go with it, and I am surprised that the bar of this Nation has not risen up in opposition to title I especially. I believe it is due solely to the fact that they have not understood how far reaching the provisions are and that title I is a rewriting and total change of our entire jury laws for Federal courts.

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

Mr. STENNIS. I gladly yield to the Senator from North Carolina, who has done so much work on this bill, and who is a former trial judge himself, as well as a former member of his State supreme court.

Mr. ERVIN. I wonder if it is not possible that the bar does not know the contents of title I. The chief judges of the district courts of the United States in all areas of this country know what is in it. There are about 90 such judges, and 60 of them have written to me. Out of the 60 chief judges, 58 of them have said that title I should not be passed in its present form, and that it should be referred to the Judicial Conference. The other two chief judges said they could only support title I if substantial amendments were made to it. I have a suitcase full of letters from them to that effect which I will read, if necessary.

Mr. STENNIS. I thank the Senator. That was the point that I was going to make. The bar has not responded because it has not been called to their special attention. But the members of the court, the trial courts, men who have the responsibility to both sides in any lawsuit, have been apprised of this matter by the chairman of the subcommittee, the Senator from North Carolina [Mr. ERVIN].

Those judges have looked at it. It is remarkable that they would respond to the extent they have, almost unanimously as the Senator has just pointed out. As I understand the figures, of the 55 answers only 2 approved and those 2 desired amendments. All the rest emphasized the need for further study, and

disapproved it in one form or another for one reason or another. This is conclusive proof that it is unthinkable and impossible for Congress to seriously consider enacting a law of this kind on the subject of jurors, which is one of the most sensitive and one of the most vital principles involved in our system of government.

I understand that the Chief Justice of the United States, as cited in the minority report in the House, has warned against hasty action on these jury selection provisions and urged that they be carefully examined before being enacted into law.

In the face of these facts, here we are going jauntily along without making any microscopic examination of the new jury system.

The title would provide that names would be selected at random. To me, as a former trial judge, it is unthinkable that Congress would provide a mandate that the names of jurors be selected at random from the voter registration lists. Later, it is true, a literacy test will be given, to make sure that they can read and write and speak the English language, or their name is taken off the lists. But not one word about a characteristic requirement, honor, integrity, principle, or anything else which is such a vital part of our jury system.

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

Mr. STENNIS. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

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

Mr. STENNIS. Mr. President, the only safeguard left would be for a litigant to use what we call peremptory challenges and excuse without cause, because any prospective juror, selected at random, who survived the slight literacy test, and had not been convicted of a felony and had no felony charge pending against him, would be qualified for jury service under these tests and would be put in the jury box even though of bad reputation for veracity in the community. That would apply across the board throughout the Nation in all Federal courts.

To me, this is just unthinkable. I believe that it must have been conceived in an atmosphere of emotionalism over the civil rights issue. But here we are, I am afraid, taking lock, stock, and barrel this whole problem without any real judgment being given to title I and its application in a given case.

We remember, a few years ago, that a bill was considered in the Senate providing that in one area of the country only there would be no illiteracy tests whatsoever with respect to those who proposed to vote. It was restricted to apply to a few States. The mandate was that there would be no amendments to the bill, and I recall that the Senate passed that bill without a single, solitary amendment. That was because of an edict handed down from the White House. I believe that there must be one in this case.

Surely, as night follows day, sometime, somewhere, Members of Congress who pass over this matter and treat it lightly, without the proper kind of consideration to such a delicate subject, are going to be held accountable to the people. Some day, someone with enough leadership throughout this Nation must make the people realize the trend in which the country is going on this subject.

Therefore, on this ground, as well as many others, I urge my fellow Senators at least to do what we can with the talent we have to make this a workable title I and title II, if there is going to be such a bill.

Mr. President, my time has expired and I therefore yield the floor.

Mr. ROBERTSON. Mr. President, I ask unanimous consent to have printed in the RECORD a statement in opposition to the civil rights bill based upon a memorandum furnished to me by the Honorable Sam Crutchfield, of Richmond, who is one of the best constitutional lawyers in the State of Virginia.

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

STATEMENT OF THE HONORABLE SAM CRUTCHFIELD

Although I consider the entire civil rights bill a serious infringement of our American liberties and a totally unnecessary piece of legislation, I wish to address myself particularly to its abridgement of the ability of our States to carry out their responsibility for the administration of justice and its unconstitutional interference with the rights which Americans have to ownership and alienation of real property.

STATE JURY PROVISIONS

Title II of this act represents an intensification of the trend to interference by the Federal government in local affairs, the end result of which could be complete subservience of all vital aspects of state functions to a centralized government. It has historically been the responsibility of the sovereign states to administer justice within their boundaries, and in this area there has always been a delicate balance between state and Federal jurisdiction. This balance has been the subject of much legislation and judicial attention.

My learned colleague, Senator ERVIN, a constitutional lawyer of recognized ability and, the distinguished Chairman of the Senate Judiciary Subcommittee on Constitutional Rights, crystallized this issue in his opening statement at the hearings on the pending Civil Rights legislation when he said: "I have spent much of my career arguing for a strong jury system, characterized by integrity and impartiality. No one would maintain that race or religion are appropriate considerations for jury service, and it has been a violation of Federal law for almost 100 years for any person charged with the duty of selecting or summoning a jury panel to discriminate because of race, color or previous condition of servitude.

"Remedies are already available, both civil and criminal, to the parties to a case and to the Justice Department when it appears that the State jury selection system is discriminatory on its face or that a fair system has been abused. 18 U.S.C. 243 is the statute establishing the Federal criminal offense of jury discrimination. As far as I, the Subcommittee staff, or the American Law Division of the Library of Congress can determine, in the 90-year history of this provision it has been used only once—in 1879, in the case of *Ex Parte Virginia*. Why do we need more laws when the ones we have are not being used? Certainly there is no claim that section 243 is unenforceable. Recent southern Federal and state juries have brought convictions for civil rights crimes. If convictions can be obtained in Federal courts under § 241 and § 242, then why have prosecutions for jury discrimination not been brought under these statutes and § 243? As a matter of fact, officials conspiring to discriminate in the selection of jurors would probably be guilty of violating all three statutes. Until it is demonstrated by clear evidence that present law is inadequate to deal with the problem, I seriously doubt both the necessity and desirability of this legislation.

"We should realize, moreover, that Title II goes much further than merely to restate the ancient prohibitions against racial discrimination. Far more seriously, it introduces into law a policy of national uniformity in state jury systems, and it is founded upon the basic assumption that Federal administration of state criminal law is valid and a worthy objective."

While the Attorney General has said that Congress has the authority to enact the proposed Title II under the authority of the Fourteenth Amendment, I join with the distinguished senior Senator from North Carolina in differing with this interpretation of the Fourteenth Amendment. Time and time again the Supreme Court has construed this Amendment to be prohibitive in nature. In fact, it has been held that the Amendment does not proscribe the action of a state in the selection of juries and the exclusion of certain classes of individuals on bases other than race or color. For example, age requirements and educational qualifications have been upheld; and the exclusion of certain occupational groups such as lawyers, preachers, ministers, doctors, dentists, and engineers and firemen of railroad trains was held to be constitutional (*Rawlings* v. *Georgia*, 201 U.S. 638 [1906]). Furthermore, the so-called "blue ribbon" closed jury has been held specifically not to be a denial of the Equal Protection of the Law or the Due Process of the Law Clauses (*Fay* v. *New York*, 332 U.S. 261 [1947]). In the Fay case the distinguished jurist, Justice Jackson, wrote in the opinion of the Court that "a state is not required to try all offenses to the same forum;" and that "blue ribbon" juries do not "exclude, or authorize the clerk to exclude, any person or class because of race, color, religion, or occupation." He further continued: "It (speaking of the blue ribbon statute) imposes no qualification of an economic nature beyond that imposed by the concededly valid general panel statute. Each of the grounds of elimination is reasonably and closely related to the juror's suitability for the kind of service the special panel requires or to his fitness to judge the kind of cases for which it is most frequently utilized. Not all of the grounds of elimination would appear relevant to the issues of the present case. But we know of no right of defendants to have a specially constituted panel which would include all persons who might be fitted to hear their particular and unique case. . ."

In *Hoyt* v. *Florida*, 368 U.S. 57 (1961) a woman charged with murder sought to have included as jurors women because they would have more compassion and understanding for her act against an unfaithful husband. The Court held in that case that the woman had no constitutional right to have women on the jury, holding that proportional class representation in the administration of a jury law is not constitutionally required. The Florida jury law is that grand and petit jurors be taken from male and female citizens of the state, but contained the following provision: "Provided, however, that the names of no female persons shall be taken for jury service unless said persons have registered with the clerk of the circuit court her desire to be placed on the jury list." Addressing itself to the constitutional issue,

the court in its opinion says, "This case in no way involves race or religion in which the circumstances shown were found by this Court to compel a conclusion of purposeful discriminatory exclusions from jury service. . . . There is present here neither the unfortunate atmosphere of ethnic or racial prejudices . . . nor the long course of discriminatory administrative practice (which was statistically demonstrated in certain previous cases)."

From these cases it is apparent that the Supreme Court has given wide latitude to the integrity of state judicial systems to administer their jury procedures, in the absence of evidence of any unlawful discriminatory practices.

It has never required affirmative state action to revise criminal procedure nor has it ever sought to permit Congress to establish or extend Federal Rules of Criminal Procedure to a state's established policies in this area. Furthermore, it has never been asserted that the Equal Protection Clause permits Federal absorption of the state's judicial system.

For over a hundred years, as pointed out by the distinguished senior Senator from North Carolina, discrimination in summoning a jury panel because of "race, religion or previous condition of servitude" has been prohibited by law and enforced by the courts. The pending proposal is unnecessary and might result in jeopardizing the delicate balance in the administration of justice in this country.

Another objectionable feature of this section II of the bill is the new powers to be conferred upon the Attorney General.

Sections 202, 203 and 204 would vest in the Attorney General, an officer of the Executive Department, certain quasi-judicial powers. This Title would confer upon him the right to investigate the selection of juries, a matter traditionally reserved to the presiding judge. The unprecedented authority contained in this Title would also have the effect of protracting not only criminal but civil litigation where we are already experiencing delays due to crowded dockets.

OPEN HOUSING PROVISIONS

An even more menacing threat to our constitutional liberty is proposed by Title IV of this bill, which seeks to expand Federal control in such a way as to interfere with our right to free possession of, and full authority over, our own property. It was the great liberal, the author of our Declaration of Inpendence—Thomas Jefferson, who said: "The political institutions of America, its various soils and climates opened a certain resource to the unfortunate and to the enterprising of every country, and insured to them the acquisition and free possession of property."

Equally strong for the preservation of property rights was the New England statesman, Samuel Adams, who wrote in a letter to William Wells: "The security of right and property is the great end of government. . . . Such measures as tend to render right and property precarious tend to destroy both property and government; for these must stand and fall together."

A great Virginian, James Madison, addressed himself to this question in a speech to the Virginia State Convention of 1829 when he said: "The personal right to acquire property, which is a natural right, gives to property, when acquired, a right to protection, as a social right.

The noted historian and constitutional lawyer, Thomas James Norton, traced the fundamentals of property ownership in a brief but compelling way in his book entitled, "Undermining the Constitution." Mr. Norton writes, ". . . the Americans set up Government 'to secure' (the Declaration of Independence says) preexisting rights to life, liberty, and the pursuit of happiness—the pursuit being largely the pursuit of property and the comforts and cultures which it brings. And as the Constitution twice puts property in the class with liberty and life, how can it be contended that law (which he wrote himself) gives to him his property any more than it gives him his life?"

Keeping before us the fundamental and guaranteed right to own and transfer property, let us consider what Title IV seeks to do. In the words of the Wall Street Journal, it would: ". . . prohibit discrimination in the sale or rental of any house or vacant land intended for housing anywhere in the country. Allegedly aggrieved persons could bring punitive damage suits in Federal courts. In addition, the Attorney General would be authorized to bring civil suits to ensure compliance or to intervene in private suits."

The Attorney General of the United States in his testimony before Subcommittee No. 5 of the House Judiciary Committee stated that Title IV applies: "to all housing and prohibits discrimination on account of race, color, religion or national origin by property owners, tract developers, real estate brokers, lending institutions and all others engaged in the sale, rental or financing of housing."

In proposing this far reaching and unprecedented interference with private property rights the Attorney General claims constitutionality for it under the Commerce Clause and the 14th Amendment. In emphasizing his position, he cavalierly asserted in his testimony: "To me it is clear that the Fourteenth Amendment gives Congress the power to address itself to the vindication of what is, in substance, the freedom to live." And he continued, amazingly enough, by saying: "The Congress is charged with the protection and promotion of interstate commerce in all its forms. I cannot doubt that housing is embraced under this Congressional power."

In analyzing the position of the Attorney General, it is necessary for us to look into the background and intent, and the subsequent interpretation of the Fourteenth Amendment. A distinguished Virginia Jurist, District Judge Charles Sterling Hutcheson, now retired, recently considered the application of the Fourteenth Amendment and the Commerce Clause as they applied to a Presidential order barring discrimination in Federally-assisted housing. Judge Hutcheson writes: "The United States Constitution gives the federal government no general power to regulate the sale of housing within the states. The making of a contract of sale, a lease, or a deed is not interstate commerce, and it could hardly be contended that a homeowner who sells his house which has a mortgage reinsured by a federal agency thereby becomes a state agency within the meaning of the Fourteenth Amendment's state action requirements. Indeed, Representative John A. Bingham of Ohio, a leading framer of the Fourteenth Amendment, specifically disclaimed any impairment of state rights in respect to property by this amendment, and told the House which passed the amendment that as to real estate, everyone knows that its acquisition and transmission under every interpretation ever given to the word property, as used in the Constitution of the country, are dependent exclusively upon the local law of the States. That this was the rule at the time of the Fourteenth Amendment, and long before, has never been doubted.

"One scholar has asserted that the presidential order which requires government contractors not to discriminate in selecting their employees does not invade the reserved powers of the states and by analogy it may be argued that the same reasoning would apply to the order governing housing. However, the two cases which might be cited to uphold federal concern with government contractors have no relation to home-building or purchasing.

"In *Wickard* v. *Filburn*, where government regulation of agricultural production was involved, the court specifically found that most wheat moved in interstate commerce and that home-grown wheat affected substantially this national wheat market. *Perkins* v. *Lukens Steel Co.* involved supplies intended for the federal government, and not government subsidy of private business supplying private needs. Moreover, by their very nature, government supplies move in interstate commerce, and as such the conditions of their production would, applying more recent cases, be subject to federal control. Indeed, one recent case has held that states may not forbid discrimination in employment by companies doing business in interstate commerce, on the ground that it interferes with Congress' power over interstate commerce, and while the authority of this case has been reversed, at least it provides a legal framework for federal interest. Accordingly, since the federal government may regulate indirectly through its fiscal powers what it may regulate directly, it may at least be argued that Congressional action, were proper legislation to be passed, in this area, would not infringe on areas reserved to the states.

"It is not, however, necessary to take up this argument further, because it is clear that no activity can be deemed more removed from interstate commerce than residential housing. Mr. Justice Frankfurter has pointed out that renting office space in a building exclusively set aside for an unrestricted variety of office work spontaneously satisfies the common understanding of what is local business. Moreover, dwelling houses are not instrumentalities of commerce and employees engaged in building or repairing dwelling houses . . . (are) not engaged in interstate commerce.

"From the point of view of the consumer, nothing can be considered more local than one's home. There may be a national market in wheat, or in government supplies, or in building materials, or even in some branches of employment, but there is no national market in housing. Wheat may be shipped from areas of surplus to areas of shortage. Labor may be recruited on a nationwide scale. But a surplus of homes in Chicago cannot satisfy a shortage of housing in Los Angeles, nor can an abundance of land suitable for building residential housing in Atlanta alleviate a dearth of land in New York. If any commodity can be said not to be in interstate commerce, it is residential housing.

"The federal government may not regulate indirectly through its fiscal powers that which it may not regulate directly. This constitutes an inadmissible intrusion into the domain of the states. For this reason too, the presidential order is unconstitutional."

Although Judge Hutcheson was writing with respect to Executive Order 11063, issued by the White House on November 20, 1962, his remarks are equally relevant to the issue before us, and, I think, an effective rebuttal to the interpretation of the Constitution on this point by our Attorney General.

A recent symposium on this question produced a well documented and soundly reasoned article entitled, "The Fourteenth Amendment and Real Property Rights." The article was written by four learned constitutional lawyers, namely Dr. Charles C. Tansill, Dr. Alfred Avins, Dr. Kenneth W. Colegrove and Mr. Sam S. Crutchfield. I might add that Mr. Crutchfield is the distinguished Executive Director of the Virginia Commission on Constitutional Government and, in this capacity, makes continuing studies with respect to the formation and interpretation of our Constitution. Many of the members of this distinguished body are re-

cipients of the valuable tracts which are published by this Commission, and I am sure they are impressed with the quality of research and reason which is reflected in each publication.

While it is not my intention to burden my colleagues with an extended discussion of the legislative intent of our predecessors in the 39th Congress, I do feel that it would be helpful to consider some of the more applicable developments in that Congress's consideration of the drafting of the Fourteenth Amendment. The article I mentioned contains a detailed analysis of those deliberations. The authors write as follows:

"(Representative Robert S.) Hale (R. N.Y.) then turned to the change which the amendment would effect in state legislation over property rights. He pointed to the fact that Congress might require that 'married women, in regard to their rights of property, should stand on the same footing with men and unmarried women,' although in all states distinctions still persisted. Brushing aside (Representative Thaddeus) Stevens' (R., Pa.) rebuttal that these groups were in different classes, he replied that if that were the distinction, Negroes could be placed in a different class than whites. He objected to the fact that the amendment would overturn the discriminatory provisions of the Oregon Constitution, and probably those of Indiana as well, as an undue interference in state internal affairs.

"The next day, Congressman Thomas T. Davis, another New York Republican, echoed Hale's objection about overcentralization. He urged that states were not under federal control 'in respect of social arrangement . . . of the rights of property, and control of persons.'" In a footnote the article sets forth Congressman Hale's argument in detail as follows: "He said: 'But the gentleman's concern is as to the right of property in married women.

"'Although this word property has been in your bill of rights from the year 1789 until this hour, who ever heard it intimated that anybody could have property protected in any State until he owned or acquired property there according to its local law or according to the law of some other state which he may have carried thither? I undertake to say no one.

"'As to real estate, everyone knows that its acquisition and transmission under every interpretation ever given to the word property, as used in the Constitution of the country, are dependent exclusively upon the local law of the States, save under a direct grant of the United States. But suppose any person has acquired property not contrary to the laws of the State, but in accordance with its law, are they not to be equally protected in the enjoyment of it, or are they to be denied all protection? That is the question, and the whole question, so far as that part of the case is concerned.'"

The article continues: "Bingham then launched into a long discussion of the need to overrule *Barron* v. *Baltimore* (32 U.S. [7 Pet.] 243 [1833]) and apply the bill of rights to the states. This case, of course, was one where the state had interfered with real property rights, a point he knew quite well. He asserted that the constitutional guarantees were 'disregarded today in Oregon' and in the South, and that the amendment was needed to secure 'equal protection to life, liberty, or property.' In response to a question from Hale, he asserted that the proposal would permit Congress to secure equal protection to life and liberty and property . . . the right to real estate being dependent on the State law. Hale asked that if Congress could not legislate 'in regard to real estate,' did Bingham mean 'to imply that it extends to personal estate.' He answered: 'Undoubtedly it is true . . . (because) the personal property of a citizen follows its owner, and is entitled to be protected in the State into which he goes.'"

This exchange brings to mind the cogent remarks made by the distinguished Minority Leader when he recently said: "If anyone can show me that a house attached to a piece of land is in interstate commerce I'll eat the chimney." The Minority Leader, a distinguished lawyer himself, has by this remark plainly illustrated the erroneous contention of the Attorney General that this Title has any relationship to the Commerce Clause. Real property by its very nature is immovable—a legal maxim known to every freshman law student. The Attorney General's argument is specious and seeks to stretch the Commerce Clause beyond any reasonable interpretation and certainly beyond the contemplation of the framers of the Constitution.

Furthermore, I feel that it is abundantly clear that neither the framers of our Constitution nor the drafters of the Fourteenth Amendment ever intended to proscribe private property rights, and I quite agree with the conclusions drawn by the authors of the article which I have been quoting wherein they state:

"1. The framers considered property rights to be fundamental, and intended to limit State power to impair them.

"2. Congress intended to restrict state legislation primarily, and state action exclusively. Private individuals were not restricted.

"3. Congress intended to assure that states would not deprive Negroes of the capacity to own land or make contracts. The phrase in the debates and the Civil Rights Bill about the 'right' to make contracts or own property simply means that state laws shall not prevent a willing seller, testator, or donor from conveying property to a Negro, or a willing person from contracting with him. It does not confer on a Negro power to compel unwilling testators to devise property to them, unwilling owners to give, lease, or sell them property, or anybody to contract with anybody else, nor does it authorize states to do so.

"Beyond this, it is impossible to say exactly what the framers of the Fourteenth Amendment intended. No one had ever dreamed at that time of enacting antidiscrimination laws requiring unwilling owners of houses to sell or rent them to Negroes. But the amendment, framed by Bingham, one of the firmest believers in property rights, and not by the equalitarian Stevens, who was disappointed in it, offers little comfort to proponents of such laws. It restricted state laws to enlarge individual rights, and not the converse.

"How would Bingham, the conservative Republican corporation lawyer from Ohio, have been struck by a law requiring an unwilling owner to sell to or rent to, or an unwilling resident to live near, people he did not want to do so? Would it have offended his notion of due process? In a recent case, one judge protested that "The Fair Housing Act of 1959 . . . would compel Case to transfer his residential property to the Rhones, not voluntarily, but under compulsion, with sanctions that might lead to imprisonment for failure to comply." This protest seems remarkably like a 1795 case which held that 'The legislature . . . had no authority to make an act divesting one citizen of his freehold, and vesting it in another . . . it is contrary both to the letter and spirit of the constitution.' It seems surprisingly like a 1798 United States Supreme Court case holding that a 'law that takes property from A and gives it to B; it is against all reason and justice, for a people to entrust a legislature with such powers; and therefore, it cannot be presumed that they have done it.' Were these concepts part of the notions of Bingham, the conservative man of property, about 'due process,' as he wrote them into the Fourteenth Amendment? They may very well have been."

Bearing in mind the legislative intent of the Fourteenth Amendment, let us analyze certain Supreme Court decisions which have treated this question of housing under the Fourteenth Amendment. The first case treating the relationship of private individuals in the transfer of real estate was *Corrigan* v. *Buckley*, 271 U.S. 323 (1926). This case involved an injunction to prevent the defendant Corrigan from selling a lot in the District of Columbia to a Negro because it violated a covenant mutually entered by Corrigan and Buckley and others "not to sell to any person of Negro race or blood." Dismissing the case for want of jurisdiction, Mr. Justice Sanford wrote the following analysis of the constitutional question involved in his opinion:

"The Fifth Amendment is a limitation only upon the powers of the General Government, *Taeton* v. *Mayes*, 163 U.S. 376, 382, and is not directed against the action of individuals, . . . and the prohibitions of the Fourteenth Amendment have reference to state action exclusively and not to any action of private individuals. *Virginia* v. *Rives*, 100 U.S. 313, 318; *U.S.* v. *Harris*, 106 U.S. 629, 639. It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the Amendment. Civil Rights Cases, 109 U.S. 3, 11. It is obvious that none of these Amendments prohibited private individuals from entering into contracts respecting the control and disposition of their own property; and there is no color whatever for the contention that they rendered the indenture void . . ."

The Court was clear in its interpretation that the Fourteenth Amendment applied only to state action. A later Court, however, under similar circumstances, involving restrictive covenants, decided that a state court enforcing racial restriction would constitute state action and, therefore, invoke the prohibitions of the Fourteenth Amendment. It is interesting to note that in *Shelley* v. *Kramer*, 33 U.S. 1 (1947), the Court did not overrule the Corrigan decision but merely distinguished it on the basis that it arose in the District of Columbia rather than in a state. In the companion case, *Hurd* v. *Hodge*, 334 U.S. 24 (1948), racial restrictions in the District of Columbia were struck down by the Court. Under the Fifth Amendment in both cases the Court said essentially that the Civil Rights Act of 1866 "does not invalidate private restrictive agreements so long as the proposals of those agreements are achieved by the parties' voluntary adherence to the terms. The action toward which the provisions of the state under consideration is governmental action."

The Supreme Court has clearly limited the application of the 14th amendment to state action. We are asked to enact legislation proscribing personal rights and privileges with respect to the ownership of real estate—freedoms historically guaranteed under our Constitution and unique to free people of the world throughout all of history under what is patently an erroneous interpretation of applicable constitutional authorities. I hope that the entire bill will be defeated. Some parts of it are unconstitutional; no part of it is needed.

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## FRIENDSHIPS FOSTER TRADE

Mr. MANSFIELD. Mr. President, though my State is not yet participating in the Partners of the Alliance program, I am sure that the people of Montana would take pride in joining our neighbors in the West, and indeed, in the Nation, in actively supporting the concept

of the program. It is a program with which the man on the street can identify and it is a program in which the average citizen can participate directly in the broad foreign affairs of our country.

Mr. President, I wish to call to the attention of the Senate an article in the September 5, 1966, issue of International Commerce, the U.S. Department of Commerce weekly, "Friendships Foster Trade." Staff writer Arthur McDermott sets out the concept and practice of the Partners of the Alliance program in a concise and readable manner. The article highlights the role of the people in activities related to the goals of the Alliance for Progress.

To me, the article points up the need for more programs of this type. It is my understanding that the District of Columbia is now joining in partnership with the Federal District of Brasilia bringing the total of citizen partnerships to 31. A group of citizens from the District of Columbia will travel this week to attend the Second Inter-American Partners of the Alliance Conference in Rio de Janeiro. From Rio de Janeiro they will travel to Brasilia where they will meet with a Brazilian Partners committee for the purpose of developing program activities. I commend this article and the program to the attention of my colleagues. I ask unanimous consent that it be incorporated at this point in my remarks.

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

FRIENDSHIPS FOSTER TRADE—PARTNERS OF ALLIANCE EVENTUALLY WILL BROADEN U.S.-LATIN COMMERCIAL TIES

(By Arthur McDermott)

A feeling that somehow the U.S. wasn't mustering its most precious asset, the individual initiative of its citizens, gave birth to one of the brightest chapters in the five-year history of the Alliance for Progress.

Through the Partners of the Alliance program, individual states in the U.S. have for the past two-and-a-half years been teaming up with nations and provinces throughout Latin America to promote the region's development through self-help projects, which are the keystone of the Alliance philosophy.

Not limited to businessmen, the partnership committees in each state include as wide a spectrum of the community as possible. Labor unions, civic and professional groups, educators and even housewives are taking part in this strictly citizen-run offshoot of the Alliance.

"The beauty of this program is that we can experiment with new techniques," says James H. Boren, who originated the idea while helping to administer the U.S. aid program in Peru. "The focus of the program is on action rather than reports of plans, and we're not limited to doing what we've done before."

SPONTANEOUS ACTIVITY

"If something makes sense, and a way can be figured out to do it, then we go ahead and do it. The individual partners are constantly doing things that we don't hear about until later, or perhaps not at all. This is good; this is what we need; spontaneity is vital to this kind of program."

Joint venture investments and other commercial relationships are developing as a natural outgrowth of these relationships.

Tentative plans are being made for an investment conference involving the Texas partners and Texas Industrial Commission, to bring Texas and Peruvian businessmen together, sometime this fall.

"We're undoubtedly creating an investment climate by bringing people together, who are new to the international investment scene. However, we don't push it. We let it evolve naturally. When something develops that way, it has a better chance of lasting," says Boren.

Increased trade is another sure long-term result which the Partners program is allowing to develop of its own accord. "Right now we're too buy building roads and schools, setting up scholarships, and shipping equipment back and forth to worry about anything else," Boren says.

"However, I attended a recent conference of the Chambers of Commerce of the Americas in Jamaica, and several of the delegates were men who are active in the Partners program in their respective countries. We're going to be working with more of this type of organizing in the future."

VARIED PROJECTS

Partnership projects have varied from shipping 50 ampules of bull semen worth $300 from Texas to Peru, to a shipment of $150,000 worth of hospital, educational and laboratory equipment from Colorado to the State of Minas Gerais in Brazil.

Education and health receive the big emphasis. Practically every participating state has made some sort of scholarship available at its universities for students from its partner area. More than 100 Latin students are already attending U.S. colleges through the activities of the Partners, and this number will multiply in the near future. Almost every agreement has resulted in a shipment of hospital and medical supplies being dispatched to the Latin partner.

However, there are no limits on the types of projects that can be undertaken. The Maryland partners sent a $10,000 machine to be used in making high-protein doughnuts for the Rio de Janeiro school system; the Michigan partners supplied teachers' guides and instruction material for literacy classes for 300 inmates of Colombia's Villa Nueva prison; Idahoans sent funds to repair braille equipment at a school for the blind in Ecuador; and the Alabama partners bought a bookmobile for use in Guatemala City and environs.

The partnerships have been designed as two-way streets, and many states in the U.S. have already received tangible benefits from their associations. The first contribution in the Tennessee-Venezuela partnership was an outstanding collection of Venezuelan art which has been touring Tennessee for the past 10 months, and is slated to travel through neighboring southeastern states.

LANGUAGE HELP

Ohio's partner, Parana State in Brazil, sent a visiting professor of Portuguese to the 1965 summer session at Miami University to instruct high school Spanish teachers in the Portuguese language. Enrollment in high school Portuguese classes throughout the state has mushroomed as a result. The University of Illinois has established a full four-year Portuguese language course to be taught by an instructor from Sao Paulo, their Brazilian partner. "Most Americans don't realize that Portuguese is the national language of half of the people of South America. How many American businessmen know Portuguese?" asks Boren.

Totally unexpected results also occur, such as when a visiting Bolivian scout leader pulled a drowning Utah boy out of the Snake River.

SELF-HELP IS KEY

Self-help is the keystone of the program. If an area isn't interested in helping itself, the Partners aren't interested in them. A Peruvian put it this way, "Texans have not made this an 'old clothes' program. They have helped us without making us feel like beggars and taking away our dignity as human beings."

When the program development team of the Maryland Partners visited a fishing village in their Partner state of Rio de Janeiro, they were greeted by a banner which read, "The fishermen of Saquarema need you." The people of the area made their living from the fish in a large inlet which was gradually being closed by silt.

The Maryland group discussed the problem with an engineer in Niteroi. Shortly after their return home the team received a letter from the fishing village asking that the project be withdrawn. With the help of the Brazilian engineer they had solved their own problem.

The Second Interamerican Conference of the Partners of the Alliance will be held in Rio de Janeiro from September 19–22. Delegates from 30 U.S. states will meet with their Latin partners in intensive committee sessions covering business and industry, education, organization and administration, agriculture, and health. After the conference, the U.S. delegates will accompany their Latin counterparts to their home countries and spend a week studying the specific problems of their particular partnership right on the spot.

On the way to the conference, the U.S. delegations will assemble in Miami on September 17 to form a national committee of Partners of the Alliance. "We're trying to help our people get the absolute maximum out of their travel dollar. In effect, these people will be able to attend both conferences and visit their partnership area on the same round-trip ticket," said Boren.

LUCKY MAN

"I sold this idea and got a chance to try it. Not many men are that lucky. When this thing started, I thought we'd begin getting real results after about six months, but frankly it just doesn't work that way," Boren says.

"We have been through the trial period and the response of the private community has been translated into successful projects. We feel that the private sector has only needed this mechanism to transform its interest into results. But we've only scratched the surface. Frankly, the most frustrating part is that we know so much more can be done, but we can only juggle so many balls in the air at one time."

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## SENATOR DOUGLAS PRAISED FOR TRUTH-IN-LENDING LEADERSHIP BY MASSACHUSETTS LEGISLATORS

Mr. PROXMIRE. Mr. President, everyone in the Congress knows that Senator PAUL DOUGLAS, of Illinois, is "Mr. Truth in Lending."

While it is unfortunate that this needed legislation has not been acted upon by the Congress this year, there is no doubt that Senator DOUGLAS' campaign for disclosure of actual finance charge rates to consumers is making an impression nationwide. In a number of States, such as Pennsylvania and Colorado, the legislatures are very close to enacting truth-in-lending measures, and similar bills have been introduced in many other States.

Consumers can be strongly encouraged, however, by the enactment in Massachusetts this year of two consumer protection laws, one for installment sales and the other for consumer loans, both based on Senator DOUGLAS' truth-in-lending proposal.

A recent editorial in the Christian Science Monitor welcomes the action of the Massachusetts Legislature and notes the praise given to Senator DOUGLAS by Massachusetts legislators for his leadership. I ask unanimous consent that this editorial along with a press release from the Office of the President of the Massachusetts State Senate, Senator Maurice A. Donahue, dated August 16, 1966, be printed in the RECORD.

There being no objection, the editorial and press release were ordered to be printed in the RECORD, as follows:

PROTECTING THE CONSUMER

Massachusetts is well on the way to setting a precedent for the nation in affording protection to the consumer in the field of credit finance. It is close to passing the first truth-in-lending law in America. It would require banks and loan companies to disclose in dollars and cents and in simple annual interest the full cost of financing loans (up to a certain maximum figure).

Massachusetts legislators give much credit to the man who has for years pushed truth-in-lending legislation—Sen. PAUL H. DOUGLAS (D) of Illinois. The president of the State Senate noted the significance of this legislation for other jurisdictions. He said, "The passage of this truth-in-lending bill here in Massachusetts will make it easier for other states and the Congress in Washington to come to grip with the entire problem of consumer credit which is so vital to our national economy."

Earlier this year the Massachusetts Legislature passed the Retail Installment Sales Act, the strongest of all consumer credit laws in America. It is the first in the United States to require full disclosure of credit costs in retail installment sales in terms of both simple annual interest and dollars and cents.

It will, in short, inform the consumer of the true cost of installment financing. Some retailers appear to have kept the cost of their goods competitive by depending on abnormally high financing charges for their profits. This act should end this deceptive practice.

These measures will provide the individual with enough information, and in terms which he can readily comprehend, to enable him to shop intelligently for consumer credit just as he endeavors to do for the best-priced goods. (Truth-in-packaging legislation will, if passed, help him shop more intelligently for the best-priced goods.)

Furthermore, we firmly believe that business and industry will benefit in the end from such measures. There has never been a time when an increase in public confidence in the honesty of business did not pay, and pay handsomely. In a country such as America where there is a vast buying public, straightforward measures of dealing between buyer and seller reap a rich reward. The Italians have a saying that "clear agreements make long friendships." This can be particularly true where truth-in-lending is concerned.

The people of other states have everything to gain by urging the passage of similar legislation.

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PRESS RELEASE, OFFICE OF THE SENATE PRESIDENT, BOSTON, MASS., AUGUST 16, 1966

Senate President Maurice A. Donahue will take the floor of the Senate today to speak on behalf of Senate Bill 2214, the Truth-in-Lending Bill covering financial institutions.

"The Truth-in-lending in the Retail Sales Act" was passed by the State Senate last May. This consumer bill of rights is now law effective November 1, 1966. It has been called the most progressive act of its type in the United States. Now before this Honorable body is the companion bill to the Retail Installment Sales Act, the Truth-in-lending bill covering financial institutions. This bill simply requires that all consumer loans be expressed in terms of an annual rate of interest and in dollars. If this act is passed, our citizens will be given a simple method to determine the cost of credit. In other words, the citizens of the Commonwealth will be able to compare shopping for loans," he stated.

"It is fitting, I think, to pay tribute to the father of the idea of Truth-in-lending, the distinguished United States Senator from Illinois, PAUL DOUGLAS. He is a man who has dedicated himself to consumer finance and education. His persistent campaign for the Truth-in-lending legislation is now beginning to bear fruit.

"The General Court of Massachusetts has lead the way in many fields of progressive legislation," Senator Donahue added.

"The passage of this Truth-in-lending bill here in Massachusetts will make it easier for other states and the Congress in Washington to come to grip with the entire problem of consumer credit which is so vital to our national economic life.

"I also wish to note that the Consumers' Council whose creation as a statutory body was sponsored by a democratic governor and passed into law by a democratic legislature has played a strong role by its support of both the Retail Installment Sales Act and the Truth-in-lending bill. It is carrying out its mandate as required by law. This body is the first of its type in the United States.

"If we act favorably on a strong Truth-in-lending bill today," he concluded, "the General Court will be reasserting and affirming its historic leadership in the United States in the enactment of progressive legislation. What we do here will have a national impact."

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## RAILROAD PASSENGER SERVICE

Mr. CASE. Mr. President, at a time when the transportation needs of our country are expanding rapidly, it is paradoxical that railroad passenger service should be in a state of decline.

Railroad after railroad seems to be joining the trend toward curtailment, if not outright discontinuation, of passenger services. Thus, the New York Central, scheduled to merge with the Pennsylvania Railroad into the largest, richest road in the Nation, is seeking to discontinue long-haul service, including trains from New York to Chicago.

In my own State of New Jersey, the picture is equally gloomy, with the passenger railroads seemingly making every effort to curtail service. While New Jersey is most acutely affected by the shrinking of short-haul services, her problems are symptomatic of the sickness that afflicts the entire railroad industry.

Generally, the railroads blame rising deficits for their desire to get out of the passenger business. Yet, writer William V. Shannon points out in a recent article published in Commonweal that the American class I railroads "have as a group been averaging close to a billion dollars a year in profits in recent years." He further notes that with two exceptions—the Government-owned railway in Switzerland and the privately owned Canadian Pacific:

Railroad lines all over the world lose money—except those in this country.

Mr. Shannon makes a strong argument against permitting the long-haul railroads to do away with their passenger operations, particularly in the East, "at the very time when conditions have become favorable for their revival and improvement."

As Mr. Shannon puts it:

The only escape in the late 1970's from traffic jams on the road and traffic jams in the sky will be the railroad.

Mr. President, I ask unanimous consent that Mr. Shannon's excellent article entitled "The Vanishing Railroad," published in the August 19, 1966, issue of Commonweal, be printed at this point in the RECORD.

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

NATIONAL AFFAIRS: THE VANISHING RAILROADS

(By William V. Shannon)

Passenger service on railroads over long distances is in danger of disappearing in the eastern half of the United States at the very time when conditions have become favorable for its revival and improvement.

The New York Central, which is scheduled to merge next month with the Pennsylvania to form the largest and richest railroad in the nation, has announced that it is petitioning the Interstate Commerce Commission to discontinue through service from New York to Chicago. It would still be possible for a traveler, if he were sternly persevering, to go by train between the two cities but it would involve taking day coaches and changing trains three times. There would be no sleepers, no diners, no club cars. The Pennsylvania has already asked the ICC to reduce from two trains to one the service it now provides between the East Coast and St. Louis, thus probably foreshadowing the ultimate abandonment of its long-distance service. These events are in accord with a development already far advanced in the East; except for short commuter runs, it is now impossible to travel by train north of Boston to Maine, New Hampshire, and Vermont and the night train from New York to Montreal has also been discontinued.

West of the Mississippi and in Canada, several railroads still run fairly comfortable long-distance trains and either break even or make a small profit on these passenger operations. But even in these areas, there are major exceptions. Train service has virtually disappeared between most points in Texas. The Southern Pacific last spring was permitted to drop through-service between New Orleans and Los Angeles although the angry passengers on the train's last run sent a round-robin letter of protest to the ICC. The same line is currently seeking to discontinue the two trains a day it runs between San Francisco and Los Angeles.

The railroads and their apologists usually offer two arguments in behalf of their retreat from passenger service. First, they contend that just as the railroads supplanted the stagecoach and the canals in the last century, it is inevitable "progress" that the faster airplane and the private automobile should now replace the railroad in the transport of passengers. There is no public right or necessity, they argue, why the traveling public is entitled to the maintenance of the older, slower mode of transport. Secondly,

they contend that it is purely a matter of economics involving prices, profits, the allocation of resources, and a railroad's duty to its stockholders. If freight is more profitable than passengers, then that is a signal under the capitalist system that freight should be expanded and passenger service cut back.

If railroads really were disappearing or becoming outmoded, as the stagecoaches were, and if railroads were, like a corner grocery store, merely private enterprises with no large social costs involved, these would be compelling arguments. As it is, they are merely proofs of the superficial, haphazard manner in which the debate over transportation policy has been conducted. A necessary, valuable, and highly desirable portion of a balanced transportation system is being abandoned in a fit of absence of mind. It is a decision that the public and government policy-makers will keenly regret in the near future, perhaps as early as a decade from now. This is, of course, not to mention the millions of devoted railroad travelers who deplore it right now.

We have all become so accustomed in this country to thinking of the railroads in terms of "poor mouthing" about passenger deficits, groaning about unfair competition from trucks and airplanes, and pleading for the discontinuance of this or that type of service that it is astonishing to stand back and look back at the actual facts. These are that the Class I railroads in this country have as a group been averaging close to a billion dollars a year in profits in recent years. The value of their shares has risen considerably on the stock market in recent years because their earnings are up. The Pennsylvania Railroad, for example, earned a net profit in the first six months of 1966 of $18,000,000, a gain of more than $4,000,000 over the comparable period last year. (This was profit strictly from the operation of the railroad; the company owns real estate, pipelines, and other subsidiaries that brought its over-all profits for the first half up to $41 millions or nearly $3 a share.) Its merger partner, the New York Central, is doing as well.

In the twenty years since the end of World War II, the railroads have made a capital investment of over $18 billion in modernizing, mechanizing, and automating engines, cars, terminals, freight yards, traffic controls, and communications. Of course, this investment follows the long drought of the Depression and the war from 1930 to 1945 when very few capital improvements were made, but the fact remains that the railroads have largely overcome their modernization lag and have laid the basis for being keen competitors in the future. Their strong flourishing condition could scarcely be less comparable to the dying stagecoach lines and canal companies of a hundred years ago.

It is even more startling to see America's railroads in a world perspective. Except for the government-owned railroad in Switzerland and the privately-owned Canadian Pacific, railroad lines all over the world lose money—except those in this country. As the London *Economist* observed (July 9, 1966): "Only the American railroads can claim to make a handsome, smacking profit." The reason is not hard to find. In moving freight, railroads have a big advantage over their competitors when it comes to carrying heavy, bulky products over long distances. Since the United States is a highly industrialized country of continental size, railroads here can exploit their natural advantage much more effectively than railroads in smaller countries such as England or France. The average shipment of freight in this country is hauled a distance of 400 miles compared to 120 miles in France and only 65 miles in Britain. But if the government-owned lines of Europe and Japan do less well than American lines with freight, they have smaller losses or even make money on their passenger service. This is because these governments have over the years followed a deliberate policy of keeping passenger fares low, trains fast and efficient, and the service on those trains excellent. The result is a much higher volume of passenger traffic, relatively speaking.

But it is here that we reach the difficult problem of the large, if invisible, social costs in all kinds of transportation. This industry is not like other purely private enterprises; every mode of transportation has received enormous subsidies, directly or indirectly, from the government, and properly so, since good transport is essential to the economic development of the nation. As a result, every mode of transport is quasi-public in nature and subject to social considerations that go beyond the profit-and-loss statement. European nations recognize these truths but the United States has never properly faced up to them.

We have long suffered what Senator CLIFFORD CASE has described as a "policy gap" in transportation: "The 'gap' exists because there is a difference between what is and what could be; . . . between the separate policies of the individual modes of transportation and the constructive policies which could exist if a unified approach were sought." CASE has long advocated a cabinet-level Department of Transportation which President Johnson endorsed this year and which, despite some serious obstacles in Congress, has a fair chance of approval.

Because there has been no coherent, consistent transportation policy, the government at all levels has subsidized some styles of transport at the expense of others. James Sites of the Association of American Railroads has called attention, for example, to "the tale of two terminals." The Union Station in Washington, D.C. was built by the railroads at a cost of $32 million of their own money—exactly the same amount as it cost to build the National Airport with *government* money. The railroad station pays $378,000 to the District of Columbia in property taxes, making it the second largest D.C. taxpayer; the airport pays no property taxes. Similarly, in New York, the Port Authority is now seriously considering the construction of a fourth airport at the cost of $890 million. No one suggested that the Government spend even one-tenth that sum to build the Pennsylvania Railroad a new station. Instead, Penn Station, which happened to be architecturally beautiful (or, rather, would have been if properly maintained) has been torn down to make more profitable use of the land.

HIDDEN SUBSIDIES

The biggest beneficiary of government largesse has been the private automobile and the bus. Over $13 billion a year is spent by the federal, state, and local governments in the construction and maintenance of highways. Ninety percent of all trips between two cities in this country are made by private automobile; the railroads, buses, and airlines compete for the other ten per cent. But the automobile is the slowest form of travel and if all costs (depreciation of the car, maintenance, insurance, gas and oil) are prorated for each trip, it is not necessarily the cheapest form of travel, contrary to what most people assume. Moreover, there are enormous social costs. There is heavy air pollution from cars and none from clean electric trains. There is time lost in the approaches to cities and comparatively little on well-run trains. There is the appalling accident rate of automobiles; if 50,000 lives were lost every year on trains or airplanes, Congress and the country would be boiling with indignation.

There are many signs that ordinary travelers are beginning to revolt against the tyranny of the automobile and the promise of easy mobility which it offers but often cannot keep. Moreover, in another ten years, the airlines over major cities which are already heavily used will reach a saturation point. The only escape in the late 1970s from traffic jams on the road and traffic jams in the sky will be the railroad. It remains the cheapest and simplest system for the movement of both passengers and freight over long distances. The existing deficit of $350 million in passenger service will then in retrospect appear a mere bagatelle. (Even now, it can be viewed as exactly equivalent to the money the railroads pay annually in state and local taxes; in no other country in the world do railroads pay such taxes.) But will railroads still have their long-distance passenger service in usable shape in the late 1970's?

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## OMBUDSMAN FOR THE DISTRICT OF COLUMBIA

Mr. LONG of Missouri. Mr. President, on August 30, on behalf of Senators KENNEDY of New York and HART, I introduced S. 3783, a bill to establish the office of ombudsman in the District of Columbia. Response to this bill has been favorable, and it hoped that hearings will be held as soon as possible.

The Washington Post, in an editorial on Saturday, September 3, 1966, pointed out that the ombudsman "experiment is worth trying." The Post editorial urged, however, that "there could be no ombudsman quite so effective or invigorating as a quick dose of home rule." I thoroughly agree. As I pointed out when this bill was introduced:

> As the problems of the District grow more complex and sophisticated, it becomes essential for residents of the District to have elected officials represent them in matters of local concern. For this reason, I voted for the Senate-passed home rule bill, and will continue to support principles of local self-government.

I added, however, that—

> Even when Home Rule becomes a reality here in the District of Columbia, it is my opinion that good government requires an additional element. I firmly believe that some form of Ombudsman must be created here in the District of Columbia.

Mr. President, I ask unanimous consent to insert, at this point in the RECORD, the editorial from the September 3, 1966, issue of the Washington Post.

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

AN OMBUDSMAN FOR THE DISTRICT OF COLUMBIA

With the friendliest of motives, Senator LONG of Missouri is sponsoring a bill to create an ombudsman for the District of Columbia. The ombudsman—a kind of public advocate and protector against the red tape and bureaucracy of government—has been an eminently successful institution in Sweden, and recently variants of the office have been adopted in Britain and New Zealand. Unhappily for the grievances of Washingtonians, Mr. LONG's bill is so carefully designed to avoid stepping on the toes of authority that it exempts the major causes of friction—the relationships with the Federal Government, Congress and even the District Commissioners.

Even with these massive omissions, the experiment is worth trying. It would give the citizen a source of information and possible leverage in zoning, welfare and other essentially civic matters. But the basic frustrations in Washington, with the accompani-

ment of an altogether endless supply of particularly sticky red tape, derive directly from the founding status of a voteless and unrepresented city. There could be no ombudsman quite so effective or invigorating as a quick dose of home rule.

## THE MENACE OF EXTREMISM

Mr. GRIFFIN. Mr. President, as another "long, hot summer" draws to a close, Americans would do well to heed some warning signs that are plainly posted before us.

Around the country, bigots and neo-Nazi riffraff have joined together in an orgy of racial hatred. Because this is a free country, such people are free to demonstrate and to speak, even though what they say is contrary to the traditions of a free America. But it is incumbent upon all who cherish freedom to be mindful of these developments lest such extremists grow in numbers and strength.

None is more sensitive to this coalition of hatred than the Jewish American. He knows the danger and the power of extremism when it gains momentum. He knows that a nation of civility and pride cannot afford to ignore organized militancy—as the Weimar Republic ignored those who gathered around Adolf Hitler.

History is a great teacher, but it cannot teach those who are blind and deaf to its lessons—those who fail to recognize the danger of extremist groups which spread hatred.

Mr. President, I ask unanimous consent to have printed in the RECORD the lead editorial of the August 26 edition of the Jewish News, published in Detroit, Mich., which discusses this danger in plain terms.

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

WARNINGS OF MENACING EXTREMISM IN UNITED STATES

As the Chinese say, a picture is the equivalent of a thousand words in describing an event. This photograph speaks volumes in revealing the links between bigots, in exposing the dangers from the right, in warning against the "white power" segregationists who have begun to use the swastika to rally white segregationists against Negroes.

The photograph shows white hecklers who paraded simultaneously with the 500 civil rights marchers in Chicago's Gage Park section. They carried swastika emblems. Apparently they were mobilized by George Lincoln Rockwell's American Nazi Party, whose Midwest office in Chicago has begun to operate with vigor. The American Nazis' appeal to hatred uses the slogan: "The only uniform is a white skin" and order the Negroes to go "back to Africa." It is the same party that had appealed for the extermination of the Jews in a Washington public square. This is how Nazism arose in Germany and how it can gain power anywhere else.

The danger from the right is clear. It serves as a warning also against all appeals for power—including the black power menace—since both the white and black power movements tend to destroy rather than to build good will and citizenship cooperation.

Both power movements serve as warnings to Americans not to tolerate extremism and to reject appeals to hatred. Both movements are admonitions to the responsible federal, state and local agencies charged with protecting life and property to exert all efforts to assure that a law-abiding spirit should be restored in our disturbed American environments, with special emphasis on such protection in the large cities.

## THE AURORA BOREALIS: STILL A COSMIC MYSTERY

Mr. GRUENING. Mr. President, as in no place under the American flag are the northern lights seen so often and in such splendor as in Alaska, a knowledgeable article on them by Walter Sullivan, one of the New York Times able science writers, is of interest.

Observations of the aurora borealis are being made constantly by the Geophysical Institute of the University of Alaska, our Nation's farthest north institute of higher learning. If, as Walter Sullivan points out, the aurora is still a cosmic mystery, that mystery is more likely to be solved at the University of Alaska than anywhere else. For that university is rapidly becoming the leading institution in the Western World for the study of arctic and subarctic phenomena, of which the aurora borealis is the most striking, sensational, and intriguing.

I ask unanimous consent that the article, entitled "The Aurora Still Is a Cosmic Mystery," published in the New York Times of Sunday, September 11, be printed at this point in my remarks.

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

SCIENCE: THE AURORA STILL IS A COSMIC MYSTERY

(By Walter Sullivan)

On Saturday night last weekend the skies over New England put on a theatrical performance of awesome scope and beauty. The aurora, or northern lights, covered much of the sky with clustered rays. Waves of light soared from the northern horizon in a magnificent display of the so-called "flaming aurora."

The Roman philosopher Seneca, in the first century, told of such as appearance of "the heavens on fire" during the reign of Tiberius. "The cohorts hurried to the succour of the colony of Ostia," he wrote, "believing it to be on fire."

On Saturday this writer roused his children from an inn in Wiscasset, Me., to see the display which, according to later assessment by the World Data Center at Cornell University, was the first of great magnitude since the sun, in its 11-year cycle, awoke from its recent quiescence.

"What makes it, Daddy?" the children asked, as they looked up in wonder. A decade ago there was a clean, simple explanation for the aurora, but it is now out of date. Rockets fired directly into displays, giant balloons, earth satellites, special cameras, television systems and spectrometers set up in the polar regions have greatly expanded our knowledge of the aurora. What has been learned?

A survey of auroral specialists and their writing last week has revealed that the fragments of truth gained by recent observations in the sky have shattered the comfortable old theories. In spite of our vast and intimate knowledge of physics, of the earth and its environment, the origin of the particles that cause these displays, which have struck fear and awe into mankind from time immemorial, is unknown.

DRAMATIC DISPLAY

True, much knowledge has been gained concerning the nature of the particles that cause the aurora when they plunge into the upper air. The most dramatic displays are produced by electrons interacting with the thin atmosphere 60 or more miles above the earth. Another form of display, the great dim bands of light that extend for thousands of miles in an east-west direction, is caused by incoming protons (the nuclei of hydrogen atoms).

The whole process is clearly controlled by the earth's magnetic field, whose lines of force, as one moves toward the geomagnetic poles, rise more and more vertically from the earth's surface. The parallel rays of light in the aurora lie along such force lines. And the nightly appearance of routine auroral displays within well defined regions near both poles is also clearly determined by the shape of the earth's magnetic field in space. In the North this region is an oval band sweeping south of Greenland, across Canada and Alaska, the Soviet Union and Norway.

A decade ago there had been no direct observations in nearby space. The Van Allen radiation belts had not been discovered. Neither had the solar wind—that constant outward rushing of thin gas from the sun. The earth's magnetic field was thought to extend into space in a symmetrical pattern like that formed by iron filings around a bar magnet. The lines of force arched between the northern and southern hemisphere in closed loops except near the poles, where they fanned out into space.

When eruptions on the sun threw out high energy protons and electrons, according to this theory, they could not push through the closed loops of the earth's magnetism, but could spiral down to earth along the open lines of force fanning out from the poles. Great eruptions on the sun broke down the earth's magnetic umbrella and allowed raining particles to produce auroral displays as far south as Cuba and Rome.

Today the picture is very different. The earth's magnetic field is known to be blown out into a comet-like tail by the solar wind. This tail reaches for an unknown distance away from the night side of the earth. Apparently there are no holes in the earth's magnetic umbrella over the poles, although particles may be able to infiltrate to the poles via the tail.

Thus, as noted in a recent review of the situation by Dr. Brian J. O'Brien of Rice University, in Texas, it is well established that a typical auroral display is caused by electrons with an energy of about 10,000 electron volts, plunging down the force lines of the earth's magnetism. But the simple question: where were those electrons ten seconds or a day earlier? cannot be answered.

Perhaps they were in the solar wind, moving toward an encounter with the shock wave that, like the bow wave of a ship, marks the meeting of the earth's magnetic field, or "magnetosphere," with the solar wind. If so, they must have found a way through the earth's magnetic defenses and then been accelerated to the energy required to produce auroral light.

Or, he said, the electrons may have been trapped in the closed portion of the earth's magnetism. That is, they may have formed part of the outer Van Allen belt. Most auroras occur below the northern and southern extremities of the outermost part of this belt. The belts themselves consist of protons and electrons spiralling around the force lines of the magnetic field in a manner that holds them firmly within the closed portion of the earth's magnetism. Perhaps, therefore, the auroras occur when something accelerates these particles and dumps them into the upper air.

Finally it is even possible that the auroral particles come from the upper air itself. This hypothesis says they are somehow snatched into the magnetosphere, accelerated and then dumped back into the air.

This would mean the solar wind does not contribute any particles at all; it simply injects energy (for example by magnetic wave motions).

As Dr. O'Brien points out, observations with the Injun 3 satellite have shown that, when there was a surge of aurora-producing electrons there was a parallel surge of trapped Van Allen belt electrons in the same region. This implies that something high above the earth suddenly imparted a great deal of energy to both types of electrons.

This acceleration mechanism, as yet unknown, may be the key to the mystery. It is of far more than academic interest, for it concerns the front-line science of plasma physics. Particle acceleration is a basic tool of physics. It enters into the problem of controlling the power of the hydrogen bomb. In the labratory there is no way to reproduce the unfettered freedoms of motion and interaction that occur on the fringes of space, where thin, hot gases, magnetic fields and high energy particles are at play.

Dr. Joseph W. Chamberlain of the Kitt Peak National Observatory in Arizona said by telephone last week that a likely arena for the acceleration is that portion of the magnetic field that arches some 15,000 miles above the Equator. The force lines passing through that region come to earth in the zones of most frequent auroras. This lofty area has not been extensively explored by satellite.

A plausible theory for the aurora must answer a number of questions. For example, what in the formless turbulence of space, generates such ordered, delicate works of art? What produces the wild motions that are seen? New ultra-sensitive television systems able to "see" auroras invisible to the eye have recorded these motions. The patterns typically move at 20 to 30 miles per second and sometimes at 60 miles a second.

It is clear that the aurora, the Van Allen belts, the solar wind and solar eruptions that cause "storms" in the earth's magnetic field are all interrelated. Their drama is performed on a scale whose vastness is beyond our direct ken. We cannot feel the magnetic storms. We cannot see the shock wave that rides over the noon side of the earth as the magnetosphere ploughs the solar wind. But fortunately we occasionally can glimpse a bit of the grandeur in the northern sky, as was the case last weekend.

## INVESTMENT TAX CREDIT SUSPENSION: A POOR WAY TO FIGHT INFLATION

Mr. TOWER. Mr. President, finally, the administration has recognized the existing inflation problem and suddenly pledged that it is going to cut spending. I hope it does, but we will have to see. It has already missed many chances to cut, such as the foreign aid bill that already has passed.

Congress still has pending this session matters mostly dealing with education and national defense. It is not likely that many cuts can or should be made in these fields. It would have been far better had the administration started cutting months ago when all the rest of us began to recognize the pinch of high costs, tight money, and spiraling interest rates.

I believe that among its rather sudden economy plans the administration makes a serious mistake by calling for curtailment of the 7-percent investment tax credit. This amounts to a tax increase on industry. It is meant to slow down our economy, to cut business expansions, and delay business plans.

Such curtailment and delay could be destructive of the jobs of American wage earners. Thus, I believe the tax credit suspension would be a punitive measure punishing for inflation Americans who are not responsible for inflation.

It is the Government which by its deficit spending creates inflation. It is the Government which should get its house in order. It is the Federal budget, not the family budget, that needs balancing. It is bureaucracy, not the citizen, who needs to get back in the black.

There are other serious flaws in the proposal to curtail investment credits. For instance, it would not only be unprecedented, but probably totally illegal to make such a tax hike retroactive as is proposed. That would be the same thing as going back and claiming that every American is liable for another $500 tax on whatever he earned last year, or the year before.

Only last March the Senate was offered an amendment to cut the investment credit. It rejected the idea as unwise by a 75-to-10 vote. The rejection was bipartisan with 30 Republicans and 45 Democrats agreeing that it was no way to attack inflation.

As late as 1 week before the administration proposed this tax hike, its own Treasury Secretary opposed suspension of the credit. He pointed out quite correctly that the effect of such action could not be felt in the economy for at least 18 months.

Well, we have inflation today. And we need relief today, not in 18 months. Even more dangerous, we have no way of knowing what economic situation really will exist in 18 months. By then we could be in a recessionary trend—if so, cutting the tax credit could kick the Nation into a full-scale, long-range recession.

This administration's Treasury Secretary also has pointed out that, if this tax credit is to be toyed with every time the economy fluctuates, business will have absolutely no confidence in Government programs and will be totally unable to plan for the future.

The Treasury Secretary also observed that the investment tax credit is a major factor in preserving a favorable U.S. balance of international payments.

As you know, the international balance of payments is critical right now because the outflow of gold has cost the United States nearly $600 million in the last year. Every additional dollar lost from this gold reserve is a critical dollar and undermines further our economy and stability.

The investment tax credit now serves to encourage foreign investment in the United States, and it encourages U.S. firms to modernize and improve their products so they can better compete in foreign markets.

In another very important point, the Treasury Secretary pointed out that if the credit is suspended, small businesses will be hardest hit. With larger profit margins, large firms may be able to absorb the tax increase—smaller businesses will have to cut production and perhaps employment to meet the higher costs.

Economic observers here in Washington have studied the issue, and they point out that the industries hardest hit by the industry tax increase would include—food processing; textile mills; paper and printing companies; producers of oil, chemicals, rubber, glass, and metals; airlines; and railroads.

In Texas, there are: 1,886 food processing firms, employing about 75,000 Texans; 66 textile mills, with 7,000 employees; 150 paper companies, with 12,000 employees; 639 chemical firms, with 45,000 employees; 158 oil enterprises, with 36,000 employees; 164 rubber-related industries, with 6,839 employees; 1,741 in printing and publishing, with 30,000 employees; 805 in glass, with 25,000 employees; 199 in metals production, with 28,000 employees; 1,000 in metals fabrication, with 33,000 employees; 35,000 Texans work with railroads; and 15,000 Texans work with airlines.

Thus, of the more than one-half million Texas industry employees, even the preliminary first, and necessarily incomplete, estimates are that this suspension would adversely affect some 350,000 Texas workers and their families.

This punitive tax increase punishes the wrong people, people who are not responsible for inflation.

I simply cannot support such an unwise idea.

It is time the Federal Government quit attacking its citizens and blaming them for inflation. Farmers, housewives, businessmen, ranchers, and wage earners are not causing inflation.

The Federal Government is.

Let the Federal Government cut its spending and get its budget balanced. Rather than having innocent Americans punished, let Americans insist on a return of fiscal sanity to their Government.

## POWER AND IMPOTENCE—BOOK REVIEW BY SENATOR CHURCH

Mr. FULBRIGHT. Mr. President, in the August 29, 1966, issue of the New Leader there appears a review of the book "Power and Impotence," published by Random House.

This book, written by Edmund Stillman and William Pfaff, is reviewed by our distinguished colleague from Idaho, Senator CHURCH. It is an interesting and perceptive review of one of the most original books on our foreign policy that I have seen. I commend both the review and the book to the attention of my colleagues.

I ask unanimous consent to have the review inserted in the RECORD.

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

"POWER AND IMPOTENCE"

(By Edmund Stillman and William Pfaff, Random House, 244 pp. $4.95; reviewed by FRANK CHURCH, member, U.S. Senate Committee on Foreign Relations)

Today, Communist solidarity is little more than a slogan on the limp banners of a spent revolution. As I begin this review, the morning paper discloses that North Korea's Communist party has just declared independ-

ence from both the Soviet Union and China. An editorial in the offical party organ, *Rodong Shinmoon*, under the heading, "Let Us Defend Independency," is quoted as attacking the "flunkies" of big foreign powers within the Party's ranks. "Communists should always do their own thinking and act independently, maintaining their own identity," the editorial declared. "They should not dance to the tune of others."

The opening of this new fissure is but the latest episode in the crack-up of the once-vaunted Red Block. The two titans of the Communist camp stalk each other in bitter rivalry, while the satellites drift steadily away from the confinement of their former subjugation. Resurgent nationalism, increasingly evident in Eastern Europe, spreads now to North Korea, challenging the thesis that Asian Communism is somehow different than the European variety, in that it condemns the small Communist countries neighboring China to forever remain its puppets.

Outside the splintered Red Bloc, the Communist world revolution bogs down. The enmity which separates Peking from Moscow diminishes the external influence of both capitals. Africa, left to itself, keeps rejecting Communist penetration, while the Red tide begins to recede in Asia.

This reversal of Communist fortunes—fragmentation within, rising resistance without—stems not from the American takeover of the war in Vietnam, or any other localized encounter. It is rooted, rather, to reasons much more fundamental—to the weaknesses inherent in Communism itself. The truth is that Communism is much too sluggish a system to engulf the world.

And the world knows it, even if we Americans do not. The emerging nations are aware that Communism holds out no solution for their wants, no instant skills for primitive African lands, no remedy for the population pressures on India or Egypt, no workable formula for dynamic economic growth.

On the contrary, whether they look toward Europe or Asia, the noteworthy examples of rapid advancement are found among the non-Communist countries. The European comparison speaks for itself, but the same holds true for Asia. As Joseph C. Harsch, writing in the *Christian Science Monitor*, recently observed, "China is in the process of being ringed with countries which are surging upwards. . . . Primary examples of the new breed of states around the fringes of Asia are Japan, South Korea, and Formosa. Indonesia is a case of a country which has tasted the Communist approach to a better life, rejected it, and is turning hungrily toward the system which has been so successful in the other places."

Against this reality, when Communist governments, struggling with their cumbersome economic systems, are faced with growing dissension even at home, it is strange indeed that the United States should still behave as though the "Free World" were about to sink under "the rising tide of Communism." Small wonder that some of us in the Senate should dissent from a foreign policy so antiquated that it still treats with Communism as a mighty monolith. The St. Louis *Post-Dispatch*, in a discerning editorial, sums up our case:

"What concerns so many Americans so deeply is not merely the Vietnam war as such, but the basic policy of which it is the cutting edge; a policy based on the postulate that the United States has a mission to project itself into the social revolutions of Asia and indeed of the whole world; a policy that commits us to define aggression unilaterally, without respect to international opinion, and to wage war wherever we alone choose to say aggression has taken place; a policy that makes us the ideological guardian of Asia, and the self-appointed policeman of the world."

In this appraisal of our present conduct, Edmund Stillman and William Pfaff, co-authors of a refreshingly original new treatise on American foreign policy, would, I think, wholeheartedly concur. Their book, *Power and Impotence*, is must reading for everyone who has come to question the wisdom of unlimited American intervention abroad.

Basically, they argue, American policy through history has persistently recoiled from the complexity of foreign affairs. For example, they stress that "The assumptions of globalism—the present American foreign policy—are at bottom identical to isolationism." Isolationism was an atempt to withdraw from this complexity, and globalism is "a wish to end complexity by reforming the world through the accomplishment of an indefinable process of orderly 'revolution.'" This, the authors assert, is a futile endeavor, "an unattainable vision."

Clearly, the United States can live in the world, as it is, but we cannot make it over in our own image. We possess more than enough military might to deter aggression against us, with plenty to spare for intervention elsewhere, should our vital interests genuinely call for it. But nothing requires us to interject ourselves into the revolutionary struggles of other societies, far removed from our own country, out of an obsessive fear of Communism. Becoming the global sentinel of decadent governments will not only prove futile in the end; it will "brand us as the exponents of a new imperialism for which there is no moral justification and no economic or military necessity."

Casting current orthodoxy aside, Stillman and Pfaff find Russia "an insecure and troubled nation"; Communist China "an exaggerated threat to America: inimical but for a long time to come materially weak"; and the Third World "largely immune . . . to any single internationalist political doctrine." It is nationalism instead, the authors conclude, which is the most potent force in the world today.

*Power and Impotence*, while it does not undertake a detailed definition of an alternative foreign policy for the United States, does set forth some common-sense guidelines. The authors plead for the application of the same realism to our diplomacy that we have always shown in our domestic politics, where we have implicitly recognized the "inevitable limit on action." Since we cannot stop violent upheaval in the world at large, our efforts should be directed toward "confining the international effects of these conditions."

In a more positive vein, the authors recommend that the United States "attend more sensibly to itself." They correctly sense that what we mean to the rest of the world depends less on what we say than what we do, and less on what we do than what we are. Here, the parallel with George Kennan's thesis is significant. He, too, objects to the present dichotomy between foreign and domestic affairs. He also urges us to place our faith in the inherent strength of our free society to survive in this age of ferment, if only we avoid the brutalization of incessant, ideological war.

The American foreign policy establishment has rendered an adverse judgment on *Power and Impotence*. The conventional wisdom can hardly be expected to applaud so devastating an indictment of its most cherished doctrines. But the heresy of today is often vindicated tomorrow. Stillman and Pfaff have written a profound and prophetic book.

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## LEASED POST OFFICES

Mr. FANNIN. Mr. President, the distinguished senior Senator from Delaware [Mr. WILLIAMS] has again demonstrated his capacity to unearth information regarding the operation of the Federal Government which the American people have a right to know.

He has performed a valuable service by bringing the light of full disclosure to bear on how the program to lease post offices has worked out in practice since its adoption in 1954.

Recently his efforts in this regard were featured in a most able article written by Ben Cole, Washington correspondent for the Arizona Republic. I commend this column to all Members of the Senate and ask unanimous consent that it be printed in the RECORD.

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

[From the Arizona Republic (Phoenix, Ariz.), Sept. 4, 1966]

END TO POST OFFICE LEASING EYED

(By Ben Cole)

WASHINGTON.—There's a gambler's chance that Sen. JOHN J. WILLIAMS, R-Del., can put a stop to the government's 14-year-old practice of leasing instead of building post offices.

Hundreds of post offices, big and small, have been acquired by the leasing arrangement since 1954. This is how the new $5 million Phoenix Post Office is to be put under a contract calling for an annual rental of $369,500 for 30 years. (The lease can be renewed up to 40 years).

The Matthew McCloskey firm of Philadephia and C. H. Leavell of El Paso, Tex., are to build and own the structure. McCloskey is a former Democratic Party treasurer and a former ambassador to Ireland.

Sen. WILLIAMS has been fighting the postal leasing system since it was invented in 1954 by former Postmaster General Arthur E. Summerfield, a Republican.

The General Accounting Office, which looks upon post office leasing with restrained revulsion, estimated by 1970 the government will be paying $160 million a year in rent.

This would build 32 Phoenix-size post offices every year.

Summerfield had two superbly attractive arguments for his proposal:

—The real estate remained on local tax rolls and the owner paid taxes to the cities.

—The owners bore the maintenance costs.

Sen. WILLIAMS was never charmed by these arguments since he figured no matter about those local taxes and maintenance costs. The public would bear the charges just the same.

The most serious evil of the leasing scheme, aside from its virtually inevitable involvement in politics, was "back-door financing."

If new post offices were built by the government, then the money would have to be provided through taxes or, in deficit years, from the sale of government bonds within the debt limit.

But when built by private developers and leased to the post office, the buildings could be financed privately. Like the local taxes and maintenance costs, the interest on the money went into the lease payments so smoothly that the taxpayers footing the bill felt nary a pang.

Both WILLIAMS and Ex-Sen. Harry F. Byrd Sr., D-Va., opposed the leasing scheme because of the back door financing.

The argument that the leasing program is an embellishment of the free enterprise system failed somehow in light of the fact Byrd and WILLIAMS were among the most reliable of conservative lawmakers.

Another less visible reason for the post office's partiality to leasing derived from ordinary interagency rivalry. With the creation of the General Services Administration in 1949, the building of federal structures

was taken out of the hands of the Post Office Department.

The public building service since then has built, serviced, and maintained these facilities. The Post Office Department, formerly the civilian boss for Uncle Sam, had its nose put out of joint.

But leasing is another matter.

The Post Office Department goes out and finds the site itself. It takes options on the land. It picks the builder-owner. It negotiates the lease, engages the architect, demands the services. Private landlords are easier to deal with than GSA, which can be notoriously difficult.

For those developers who know how, getting into the post office leasing business is fun. The land options and long-term leases make it easy to get credit. It is possible for a capable operator to go into the post office owning business with a minimum of capital; and the financing is virtually riskless.

Sen. WILLIAMS hopes to put a stop to these no-risk, government sponsored real estate transactions. The authority for the post office to lease facilities expires at midnight Dec. 31 unless it is renewed.

WILLIAMS' recent exposé of some of the facts and figures about post office leases drove the extension bill back into the Senate Public Works Committee. Of course, the majority can always bring it out again and pass it by record vote over WILLIAMS' head; but the soft-spoken sleuth from Sussex County, Delaware, is still gathering his ammunition.

It was a Republican idea in the first place; and the Democrats may not want to go on with it after WILLIAMS gets through.

Sen. WILLIAMS is one of the most valuable men in the government, often standing up alone to battle Democrats and Republicans alike for what he believes is the public interest. Frequently, he gets little or no support but he continues to fight.

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## NATO RESOLUTIONS OF 1951 AND 1966 COMPARED

Mr. GRUENING. Mr. President, on August 31, 1966, the able and distinguished majority leader, Mr. MANSFIELD, on behalf of himself and the other members of the majority policy committee introduced Senate Resolution 300 expressing the sense of the Senate that "a substantial reduction of U.S. forces permanently stationed in Europe can be made without adversely affecting our resolve or ability to meet our commitment under the North Atlantic Treaty."

Senate Resolution 300 also provides that it would amend, wherever there is a conflict, Senate Resolution 99 adopted on April 4, 1951. Senate Resolution 99 also was related to the U.S. obligation under the NATO Treaty and, in essence, expressed the sense of the Senate agreeing to the sending of four additional divisions of ground forces to Western Europe. It does seem that if in 1951 the sense of the Senate could approve the sending of a specific number of ground troops to Europe to carry out our commitment under the NATO Treaty, then the Senate in 1966 can similarly express its opinion that the United States no longer needs the present number of troops in Europe and that some should be withdrawn.

The debates in the Senate in 1951 on Senate Resolution 99 were reminiscent of the debates taking place in the Senate now on Senate Resolution 300. In the course of these debates it would be well that we keep in mind the exact action taken in 1951.

Accordingly, I ask unanimous consent that there be printed at this point in my remarks the full text of Senate Resolution 99 of April 4, 1951, the vote by which Senate Resolution 99 was adopted, the text of Senate Resolution 300 as introduced by the majority leader on August 31, 1966, and a full list of the 25 cosponsors of Resolution 300.

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

EXHIBIT 1

TEXT OF SENATE RESOLUTION 99, AS AGREED TO APRIL 4, 1951

Whereas the foreign policy and military strength of the United States are dedicated to the protection of our national security, the preservation of the liberties of the American people, and the maintenance of world peace; and

Whereas the North Atlantic Treaty, approved by the Senate by a vote of 82–13, is a major and historic act designed to build up the collective strength of the free peoples of the earth to resist aggression, and to preserve world peace; and

Whereas the security of the United States and its citizens is involved with the security of its partners under the North Atlantic Treaty, and the commitments of that treaty are therefore an essential part of the foreign policy of the United States; and

Whereas article 3 of the North Atlantic Treaty pledges that the United States and the other parties thereto "separately and jointly, by means of continuous and effective self-help and mutual aid, will maintain and develop their individual and collective capacity to resist armed attack"; and

Whereas recent events have threatened world peace and as a result all parties to the North Atlantic Treaty are individually and collectively mobilizing their productive capacities and manpower for their self-defense; and

Whereas the free nations of Europe are vital centers of civilization, freedom, and production, and their subjugation by totalitarian forces would weaken and endanger the defensive capacity of the United States and the other free nations; and

Whereas the success of our common defense effort under a unified command requires the vigorous action and the full cooperation of all treaty partners in the supplying of materials and men on a fair and equitable basis, and General Eisenhower has testified that the "bulk" of the land forces should be supplied by our European allies and that such numbers supplied should be the "major fraction" of the total number: Now, therefore, be it

*Resolved*, That—

1. the Senate approves the action of the President of the United States in cooperating in the common defensive effort of the North Atlantic Treaty nations by designating, at their unanimous request, General of the Army Dwight D. Eisenhower as Supreme Allied Commander, Europe, and in placing Armed Forces of the United States in Europe under his command;

2. it is the belief of the Senate that the threat to the security of the United States and our North Atlantic Treaty partners makes it necessary for the United States to station abroad such units of our Armed Forces as may be necessary and appropriate to contribute our fair share of the forces needed for the joint defense of the North Atlantic area;

3. it is the sense of the Senate that the President of the United States as Commander in Chief of the Armed Forces, before taking action to send units of ground troops to Europe under article 3 of the North Atlantic Treaty, should consult the Secretary of Defense and the Joint Chiefs of Staff, the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Armed Services Committees of the Senate and the House of Representatives, and that he should likewise consult the Supreme Allied Commander, Europe;

4. it is the sense of the Senate that before sending units of ground troops to Europe under article 3 of the North Atlantic Treaty, the Joint Chiefs of Staff shall certify to the Secretary of Defense that in their opinion the parties to the North Atlantic Treaty are giving, and have agreed to give full, realistic force and effect to the requirement of article 3 of said treaty that "by means of continuous and effective self-help and mutual aid" they will "maintain and develop their individual and collective capacity to resist armed attack," specifically insofar as the creation of combat units is concerned;

5. the Senate herewith approves the understanding that the major contribution to the ground forces under General Eeisenhower's command should be made by the European members of the North Atlantic Treaty, and that such units of United States ground forces as may be assigned to the above command shall be so assigned only after the Joint Chiefs of Staff certify to the Secretary of Defense that in their opinion such assignment is a necessary step in strengthening the security of the United States; and the certified opinions referred to in paragraphs 4 and 5 shall be transmitted by the Secretary of Defense to the President of the United States, and to the Senate Committees on Foreign Relations and Armed Services, and to the House Committees on Foreign Affairs and Armed Services as soon as they are received;

6. it is the sense of the Senate that, in the interests of sound constitutional processes, and of national unity and understanding, congressional approval should be obtained of any policy requiring the assignment of American troops abroad when such assignment is in implementation of article 3 of the North Atlantic Treaty; and the Senate hereby approves the present plans of the President and the Joint Chiefs of Staff to send four additional divisions of ground forces to Western Europe, but it is the sense of the Senate that no ground troops in addition to such four divisions should be sent to Western Europe in implementation of article 3 of the North Atlantic Treaty without further congressional approval;

7. it is the sense of the Senate that the President should submit to the Congress at intervals of not more than 6 months reports on the implementation of the North Atlantic Treaty, including such information as may be made available for this purpose by the Supreme Allied Commander, Europe;

8. it is the sense of the Senate that the United States should seek to eliminate all provisions of the existing treaty with Italy which impose limitations upon the military strength of Italy and prevent the performance by Italy of her obligations under the North Atlantic Treaty to contribute to the full extent of her capacity to the defense of Western Europe;

9. it is the sense of the Senate that consideration should be given to the revision of plans for the defense of Europe as soon as possible so as to provide for utilization on a voluntary basis of the military and other resources of Western Germany and Spain, but not exclusive of the military and other resources of other nations.

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EXHIBIT 2

THE VOTE BY WHICH SENATE RESOLUTION 99 WAS ADOPTED

Mr. JOHNSON of Texas. I announce that the Senator from Minnesota [Mr. HUMPHREY] and the Senator from Tennessee [Mr. Kefauver] are necessarily absent.

The Senator from Washington [Mr. MAGNUSON] is absent by leave of the Senate on official committee business.

The Senator from Nevada [Mr. McCarran] is absent by leave of the Senate on official business.

The Senator from Tennessee [Mr. McKellar] is absent because of illness.

I announce further that, if present and voting, the Senator from Minnesota [Mr. HUMPHREY], the Senator from Washington [Mr. MAGNUSON], the Senator from Nevada [Mr. McCarran], and the Senators from Tennessee [Mr. Kefauver and Mr. McKellar] would vote "yea."

Mr. SALTONSTALL. I announce that the Senator from Michigan [Mr. Vandenberg] is absent by leave of the Senate.

The result was announced—yeas 69, nays 21, as follows:

YEAS—69

Aiken, Anderson, Benton, Brewster, Bridges, Butler, Md., Byrd, Capehart, Carlson, Chavez, Clements, Connally, Douglas, Duff, Eastland, Flanders, Frear, George, Gillette, Green, Hayden, Hendrickson, Hennings.

Hickenlooper, Hill, Hoey, Holland, Hunt, Ives, Johnson, Colo., Johnson, Tex., Johnston, S.C., Kerr, Kilgore, Knowland, Lehman, Lodge, Long, McCarthy, McClellan, McFarland, McMahon, Martin, Maybank, Millikin, Monroney.

Morse, Murray, Neely, Nixon, O'Conor, O'Mahoney, Pastore, Robertson, Russell, Saltonstall, Smathers, Smith, Maine, Smith, N.J., Smith, N.C., Sparkman, Stennis, Taft, Thye, Tobey, Underwood, Watkins, Wiley, Young.

NAYS—21

Bennett, Bricker, Butler, Nebr., Cain, Case, Cordon, Dirksen, Dworshak, Ecton, Ellender, Ferguson, Fulbright, Jenner, Kem, Langer, Malone, Mundt, Schoeppel, Welker, Wherry, Williams.

NOT VOTING—6

Humphrey, Kefauver, McCarran, McKellar, Magnuson, Vandenberg.

So Senate Resolution 99, as amended, was agreed to.

EXHIBIT 3

S. RES. 300

Whereas the foreign policy and military strength of the United States are dedicated to the protection of our national security, the preservation of the liberties of the American people, and the maintenance of world peace; and

Whereas the United States in implementing these principles has maintained large contingents of American Armed Forces in Europe, together with air and naval units, for twenty years; and

Whereas the security of the United States and its citizens remains interwoven with the security of other nations signatory to the North Atlantic Treaty as it was when the treaty was signed, but the condition of our European allies, both economically and militarily, has appreciably improved since large contingents of forces were deployed; and

Whereas the means and capacity of all members of the North Atlantic Treaty Organization to provide forces to resist aggression has significantly improved since the original United States deployment; and

Whereas the commitment by all members of the North Atlantic Treaty is based upon the full cooperation of all treaty partners in contributing materials and men on a fair and equitable basis, but such contributions have not been forthcoming from all other members of the organization; and

Whereas relations between Eastern Europe and Western Europe were tense when the large contingents of United States forces were deployed in Europe but this situation has now undergone substantial change and relations between the two parts of Europe are now characterized by an increasing two-way flow of trade, people and other peaceful exchange; and

Whereas the present policy of maintaining large contingents of United States forces and their dependents on the European continent also contributes further to the fiscal and monetary problems of the United States: Now, therefore, be it

*Resolved*, That—

(1) it is the sense of the Senate that, with changes and improvements in the techniques of modern warfare and because of the vast increase in capacity of the United States to wage war and to move military forces and equipment by air, a substantial reduction of United States forces permanently stationed in Europe can be made without adversely affecting either our resolve or ability to meet our commitment under the North Atlantic Treaty;

(2) S. Res. 99, adopted in the Senate April 4, 1951, is amended to contain the provisions of this resolution and, where the resolutions may conflict, the present resolution is controlling as to the sense of the Senate.

FULL LIST OF COSPONSORS TO S. 300

Mr. MANSFIELD (for himself, Mr. LONG of Louisiana, Mr. SMATHERS, Mr. HILL, Mr. RUSSELL of Georgia, Mr. HAYDEN, Mr. MAGNUSON, Mr. PASTORE, Mr. SYMINGTON, Mr. MUSKIE, Mr. HART, Mr. BREWSTER, Mr. INOUYE, Mr. MORSE, Mr. TALMADGE, Mr. PROXMIRE, Mr. BURDICK, Mr. GRUENING, Mr. MCINTYRE, Mr. FULBRIGHT, Mr. DOMINICK, Mr. YOUNG of North Dakota, Mr. LONG of Missouri, Mr. PEARSON, Mr. YARBOROUGH, and Mr. BYRD of West Virginia) submitted the following resolution; which was held without reference.

## GNASHING OF TEETH

Mr. LONG of Missouri. Mr. President, recent Supreme Court decisions interpreting the rights of the individual in criminal cases have created considerable controversy throughout the United States. In the September 1966 issue of the Federal Bureau of Investigation's Law Enforcement Bulletin, the FBI Director J. Edgar Hoover points out that:

There is little to be gained from just shouting protests and criticisms, but there is much to be gained from throwing our full resources and energies into training a professional law enforcement corps to be effective within the framework of current rules of law and evidence.

I ask unanimous consent to insert, at this point in the RECORD, the Director's message from the Law Enforcement Bulletin and an editorial on this message which appeared in the Sunday, September 4, 1966, issue of the Washington Post.

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

[From the FBI Law Enforcement Bulletin]

MESSAGE FROM THE DIRECTOR

There has been much "wailing and gnashing of teeth" in some law enforcement circles lately in response to developments in the criminal law, particularly confessions, interrogations, search and seizure, and various rights of the accused.

Historically, American courts have assumed the responsibility of assuring that governmental power is not misused to injure the rights of individual citizens. Our courts are now committed to exercising supervisory control over law enforcement through the exclusionary theory whereby evidence obtained in violation of certain rules cannot be used in a criminal trial.

Various courts have been roundly criticized for recent decisions which some reviewers say reflect an unjustified and unprecedented concern for the lawbreaker; for illogical, shortsighted judicial policies which in effect legislate new laws to the detriment of society. They have been charged with handcuffing law enforcement by requiring impossible procedures which, it is said, will insure the release of the guilty while destroying the morale of the officer.

In reply, some critics of police declare that unless we have tight, restrictive control of law enforcement, police lawlessness will result. The extremes of both views tend to cloud the fact that the police and the courts should have a common objective: to develop and maintain a system of administering criminal justice which is fair, impartial, and effective. All will agree that this is an exceedingly difficult and complex task.

There is little to be gained from just shouting protests and criticisms, but there is much to be gained from throwing our full resources and energies into training a professional law enforcement corps to be effective within the framework of current rules of law and evidence.

We, as citizens, expect the business and technical segments of our society to keep abreast of the latest developments in their respective areas and to conduct research to foster progress. Our profession, dedicated to the preservation of America's basic freedoms, certainly cannot exempt itself from a similar demand from other citizens. A continuing, comprehensive research and training program, with a conscientious application of the knowledge gained therefrom, is the key to properly discharging our responsibilities to the people and the Nation.

Increased professional police training is no longer a desirable goal, no longer a matter of choice for United States law enforcement. It is an absolute necessity.

JOHN EDGAR HOOVER, *Director*.

SEPTEMBER 1, 1966.

[From the Washington (D.C.) Post, Sept. 4, 1966]

"GNASHING OF TEETH"

There has been much "wailing and gnashing of teeth" in some law enforcement circles lately in response to developments in the criminal law, particularly confessions, interrogations, search and seizure, and various rights of the accused. Historically, American courts have assumed the responsibility of assuring that governmental power is not misused to injure the rights of individual citizens. . . There is little to be gained from just shouting protests and criticisms, but there is much to be gained from throwing our full resources and energies into training a professional law enforcement corps to be effective within the framework of current rules of law and evidence.

Who said that? Some bleeding heart? Some professional do-gooder? Some sentimental coddler of criminals? Not exactly. The words were written by J. Edgar Hoover in the FBI *Law Enforcement Bulletin*. They make an invaluable contribution to effective law enforcement, in our opinion. They put in perspective the prophecies of doom that have come from some less thoughtful police officers and prosecutors. They remind Americans that the restraints which the Supreme Court has placed upon investigation and prosecution of crime are among the fundamental political rights of free men; they are the indispensable means of forestalling arbitrary and tyrannical governmental power.

Law enforcement has not been shackled. Criminals have not been given *carte blanche*. Resourceful and resolute policemen are going steadily about their business of investigating crime and bringing criminals to justice—and by methods that commend themselves to a free and self-governing people. Mr. Hoover deserves thanks for helping to make that plain.

## SCHOOL MILK ASSISTANCE ESSENTIAL AS MORE AND MORE DAIRY FARMERS LEAVE FARM

Mr. PROXMIRE. Mr. President, recent figures for August milk production indicate that the continuing exodus of dairy farmers into other, better paying, operations still continues. August production was lower than it has been in any August since 1939 when our population was two-thirds of what it is now. It was 2 percent below August of 1965 and 4 percent below the 1960–64 average. Furthermore, milk production for the first 8 months of 1966 has been 4 percent below a comparable period in 1965.

There is no doubt in my mind that unless we insure a decent income for the dairy farmer, milk production is going to dip ever lower. As a result there will ultimately be a very, very sharp price increase as the demand for milk begins to outstrip the supply.

One of the steps we can take to improve dairy income and thus keep the dairy farmer on the farm is to support and expand the school milk program. The program aids farmers by creating a greater demand for milk which results in a better price to the farmer. The program received $104 million for fiscal 1967 in the agriculture appropriations bill. However, an additional $6 million is needed if the milk program is to reimburse program participants at a level equivalent to that existing in past years.

I intend to fight for an increase in school milk funds in a supplemental appropriations bill for the benefit of both the dairy farmer and the consumer who will suffer greatly if milk production continues to decline.

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## PUBLIC SERVICE POLITICAL CAMPAIGN PROGRAMS BY TELEVISION STATIONS IN NEBRASKA

Mr. CURTIS. Mr. President, I want to take a moment to describe a television program on which I appeared recently in Nebraska, and to express my appreciation for the public service rendered by the station which presented the program.

The program was one of a "Meet the Candidates" series on Lincoln, Nebr., television station KOLN and Grand Island, Nebr., station KGIN-TV. It was my privilege to be interviewed on this program by a panel of four impartial newsmen. The purpose was to obtain my views on a number of subjects pertinent in the campaign for U.S. Senator in Nebraska.

My opponent was also interviewed for the same amount of time, 30 minutes, by the same panel of newsmen.

The programs were video-taped and were presented over television a week or so later at times which were announced in advance.

The television station did not present these programs during hours when viewership is low or when television time is relatively cheap. Rather, the station canceled regularly scheduled programs at prime times and in the process incurred a loss in revenue in order to present these programs.

Besides the race for Senator, the station video-taped similar interview programs for the offices of Governor and Lieutenant Governor and for the House of Representatives.

I believe, Mr. President, that this was a public service of the highest, in keeping with the finest traditions of responsibility by the public information media in a free society to present the views of candidates in an election.

There was no haranguing debate of the type that adds nothing but confusion to a campaign. The questions were direct and the candidates had to respond, or else they would very clearly appear to be dodging. The questions were asked and answered in a factual, unemotional atmosphere. Of course, the candidates could respond in an excited fashion if they so desired, or they could ramble, or be concise. They could "put on a show" if they wished, but the participants were there to ask and answer questions in the true spirit of a factual, unemotional discussion of the problems facing this Nation today.

It was my pleasure to appear on this program with this fine panel of newsmen on KOLN-KGIN-TV. I am sure that the programs added light rather than heat to the campaign in Nebraska. I feel that the Nation will be a better place to live when all elections are held more on the basis of facts rather than of fancy and emotion. I believe these programs as presented by the Lincoln-Grand Island stations represent the free-enterprise broadcasting and television industry at its best in America.

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## PROFOUND HARMONY BETWEEN ADMINISTRATION AND WASHINGTON POST

Mr. FULBRIGHT. Mr. President, on August 25 I placed in the RECORD two editorials published by the Washington Post. One of the editorials took umbrage at what was construed as a suggestion I had made that the Post seemed overly eager to please the administration.

In order to complete the RECORD, I ask unanimous consent to have printed at this point in my remarks a second Post editorial, dated September 13, reminding us that the appointment of the Post's former executive vice president to the ambassadorial post in Switzerland is one of the best noncareer appointments ever made by our Government. It is gratifying and reassuring to observe the profound harmony which exists between the administration and the Washington Post.

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

[From the Washington (D.C.) Post, Sept. 13, 1966]

NEW AMBASSADOR

The Johnson Administration, notable in its search for talent within the ranks of the government establishment, has also tried hard to find qualified people in private life. The diplomatic appointment of John S. Hayes, president of the Washington Post-Newsweek radio and television stations in Jacksonville and in Washington, is one such recruit produced by the diligent talent searches under the direction of Civil Service Commissioner John W. Macy Jr. Ambassador Hayes who now goes to the important post in Switzerland ought to be well qualified for an assignment that has become of increasing interest to this country.

His new post will involve on his part a personal financial sacrifice and on the part of the Washington Post Company a loss of executive talent. But this sort of climax to a private career is in the best tradition of our earlier non-career diplomatic servants. Men of broad experience in private business have talents useful to government, and public service gratifies a healthy impulse for the distinction of serving the country.

Ambassador Hayes has been a leader in his own profession and industry and he has served his community well in such non-governmental posts as President of the United Community Funds and Councils of America. The friends he has won among his colleagues in broadcasting and publishing fields and among those associated with him in civic enterprises will wish him success in his new public role.

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## U.S. POLICY IN VIETNAM

Mr. CHURCH. Mr. President, Tom Wicker, a writer for the New York Times, has written a perceptive article which was published in the New York Times on September 2.

The article underscores the logical and substantive contradictions of some recent pronouncements by the administration concerning our aims and presence in Vietnam.

I ask unanimous consent that Mr. Wicker's article be printed at this point in the RECORD.

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

[From the New York Times, Sept. 2, 1966]

CALLING A SPADE AN EARTHMOVER

(By Tom Wicker)

WASHINGTON, September 1.—Secretary of State Dean Rusk recently spoke to the Veterans of Foreign Wars. On the same day he conferred with U Thant, the Secretary General of the United Nations. Senator J. W. FULBRIGHT of Arkansas, a dedicated Rusk-watcher, then rose in the Senate to discuss the New York Times's account of Mr. Rusk's statements.

"In the conversation with Mr. U Thant," the Senator said, "according to the Times, the Secretary asserted that the 'United States wanted to de-escalate the Vietnam war' but said there was lack of interest on the part of Hanoi and its allies.

PULLOUT WOULD BE FATAL

"Speaking to the Veterans of Foreign Wars, however, the Secretary of State said that a premature pullout from Vietnam would surely lead to World War III. According to the paper, Mr. Rusk said: 'Any withdrawal before complete victory over Communist aggression would be . . . fatal.' "

Senator FULBRIGHT concluded: "So one can take a choice of U.S. policy—de-escalation or complete victory. Except that I had always presumed that these were mutually exclusive."

While still in this state of bemusement, Senator FULBRIGHT might direct his attention to President Johnson's recent address to the American Legion. Mr. Johnson described the Vietnamese war this way:

"It is meant to be the opening salvo in a series of bombardments or, as they are called

in Peking, 'wars of liberation.' And if it succeeds in South Vietnam, then, as Marshal Lin Piao says, and I quote him, 'The people in other parts of the world will see that what the Vietnamese people can do they can do, too.' "

But a page or two later, the President said of the people of Asia, including the South Vietnamese: "Our assistance to these nations, our involvement in their affairs, will be no greater than they choose to have it."

Again one may have a choice—but how is the idea of a vital world struggle to stop Chinese expansion and aggression to be reconciled with the statement that the effort to aid Asian nations will be "no greater than they choose to have it"? For if American vital interests and security really are threatened by Chinese-backed wars of liberation, in Vietnam or elsewhere, these would have to be met with the force required whether or not the nations providing the immediate battlefield "choose to have it."

THREATENED CHAOS

But Mr. Johnson was not through. So interwoven was the American destiny with that of all nations, he said, "that our responsibilities would be just as real in the absence of the Communist threat." That is, the needs and aspirations of the "underdeveloped peoples" have to be met or "the ranging search and quest for bread may bring on the reality of chaos."

It may well be argued that these are linked objectives—that the defense of one small country is the pivot on which resistance to Chinese expansionism turns, and that unless that resistance succeeds, the underdeveloped peoples will be subverted by Peking rather than elevated by Washington.

If so, the inescapable logic of the argument is that the bedrock American war aim in Vietnam is to confront Communist Chinese expansionism as a matter of vital interest to the United States and world tranquillity. This might be a compelling argument—except that there are no Chinese fighting in Vietnam, the Administration insists there is no evidence that any Chinese will fight in Vietnam, and no one has been able to show that Peking controls what the Administration calls the North Vietnamese "aggressors."

THE CHINESE MENACE

In fact, some here believe that, since Ho Chi Minh makes such an improbable Hitler and has demonstrated so many times that he is no puppet, the Chinese world menace has had to be put forward by the Administration to justify its major war effort in Southeast Asia.

Whatever the case, Mr. Johnson and Mr. Rusk might clear away some public confusion if they clarified their own rhetoric about confronting China, aiding small nations, healing the sick, enforcing the SEATO pact, and keeping President Eisenhower's commitments.

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## CONSIDER THE GAINS WE HAVE MADE

Mr. GRUENING. Mr. President, differences, difficulties, and disturbances always get the headlines. Nor did any great reform or reevaluation come easily. The riots of Watts, Dayton, Cicero, Cleveland, Chicago, or Atlanta are emblazoned on the front pages of our newspapers and are recorded on radio and television screen. They include such nauseating and infamous occurrences as that reported from Grenada, Miss., on the front page of the Washington Post yesterday.



The story was datelined Grenada, Miss., September 12. It began:

A mob of angry whites wielding ax handles, pipes and chains surrounded two schools that were integrated today and attacked Negroes trying to leave when classes were over.

At least 33 persons were beaten at the school, Negro leaders said, including a 12-year-old boy whose leg was broken.

City policemen did little to stop the attack, and state troopers had to be called in to rescue the Negroes.

One Negro youth ran a gauntlet of cursing whites for a full block, his face bleeding, his clothes torn.

I need not read further because Federal officials take the law of the land seriously and news stories today tell of the suit filed Tuesday in Federal Court in Oxford, Miss., in which the Justice Department charged that local public officials including the sheriff and chief of police, stood by while a crowd of whites beat Negro schoolchildren. What a loathsome spectacle. The Department of Justice now asks that the officials be required to protect Negro children from the whites who are opposing school integration in Grenada.

Yet, while these disgraceful and deplorable blots on our American escutcheon occur to the shame of those who perpetuate them and the officials who tolerate them, it is well to take note of the tremendous gains our Nation has made to bring to each citizen the full privileges of American citizenship. Much remains to be corrected, but truly the gains of the last 12 years are astounding.

The Supreme Court decision in the Brown case of 1954, opened a new era. Prior to that time it was impossible to take a Negro friend to lunch in any Washington, D.C. hotel. One could do so only at the Union Station. Well-known and distinguished public servants such as Ralph Bunche or Thurgood Marshal or Robert Weaver had to endure such discrimination and humiliation and only all because of the color of their skin. But that much has been corrected. It belongs to the bitter past.

Increasingly, our colored citizens have achieved high public office. They will achieve more, and one day soon, we may hope we will not make a reference to color, but, rather, only to the name and the qualifications of the individual concerned. Here are but a few of the men and women whose abilities have been recognized at the Federal Government level:

Robert Weaver is the first Negro American to be named a member of a President's cabinet. He deserves this honor. He achieved it on merit. His was a fitting recognition of devoted public service, experience and expertness in the field of housing.

Thurgood Marshall is the first Negro to be Solicitor General for the Department of Justice.

The New York Times of September 10 contained an account by Mr. Paul Hofmann of the induction of Mrs. Constance Baker Motley as the first Negro woman in the country's history to hold a Federal Judgeship and the first woman member of the Federal Court for the Southern District of New York. It is interesting to learn from Mr. Hofmann's story that Solicitor General Thurgood Marshall once worked with Mrs. Motley in the NAACP.

Andrew F. Brimmer, former Assistant Secretary of Commerce, is now a member of the Federal Reserve Board.

Hobart Taylor, previously Chairman of the President's Committee on Equal Employment, is now a Director of the Export-Import Bank.

Lyle Carter, was recently appointed Assistant Secretary of Health, Education, and Welfare.

Roger W. Wilkins is the Director, Community Relations Service, Department of Commerce.

Mrs. Patricia Harris is the Ambassador to Luxembourg.

Elliot P. Skinner is the Ambassador to Upper Volta.

Dr. James Nabrit is the U.S. Ambassador to the United Nations.

Sam Nabrit is a member of the Atomic Energy Commission.

Wade H. McCree was just appointed to the Sixth District Court of Appeals.

Integration is proceeding in this Nation—let no one overlook this gratifying development. As a nation we had and still have our problems in this tremendous field. The important fact is that the United States is an open society whose passing afflictions stand out clearly and, occasionally, grotesquely.

Integration is proceeding because men like Dr. Martin Luther King and Roy Wilkins and Clarence M. Mitchell here in Washington combine action with reason.

Integration is proceeding because national organizations like the National Association for the Advancement of Colored People continue to work with all citizens, not just one color or one political group. The NAACP has been bloodied on occasion, but it has not been beaten and as Americans we should be very proud of this association. Let the militant radical shout "Uncle Tom," but let him remember as he does that those at whom he shouts were in the forefront in this fight long before him.

Colored Americans have been incredibly patient. They have been patient for a century. For this we may be thankful and for this we must give a measure of credit to a system of government, which while imperfect, is still the best man has. Our colored slums had a few escape hatches. Gradually, perhaps principally through the doors of the world of music and on the playing fields of the world of sports, where a man or woman is judged for his talent and skills, it became clear that the color of one's skin was unimportant. Today I can think of no more superb example of talent being recognized and properly honored than that which occurs this week as the Metropolitan Opera's Leontyne Price opens the new opera house in Lincoln Center in New York City. Miss Price, a Negro, sings the leading role in "Anthony and Cleopatra," a musical part written for her by Mr. Samuel Barber. Yes, we have made substantial progress.

In Alaska we are proud of the progressive legislation which the State has enacted in the field of human rights. Section 18.80.240 includes not only open housing accommodations but unimproved property or as it was known at the time the "open land provision." Our State act relating to the Commission on Human Rights also includes section 18.80.250 which places financial institutions under the act and specifically prohibits discrimination against persons seeking financial assistance because of race, religion, color or national origin.

Both of these farsighted, humanitarian provisions are, I believe, the products of the Alaska State House of Representatives House Judiciary Committee of which State Representative Gene Guess is chairman.

I ask unanimous consent that chapter 117 of the Laws of Alaska, 1965, relating to the Commission for Human Rights be made a part of the RECORD so that my colleagues and others will know how the Alaska State Legislature has expressed itself affirmatively in regards to civil rights.

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

(C.S.H.B. 139)

LAWS OF ALASKA, 1965—CHAPTER 117

(An act relating to the Commission for Human Rights; and providing for an effective date.)

Be It Enacted by the Legislature of the State of Alaska:

"Section 1. AS 18.80.060 is repealed and reenacted to read:

"'Sec. 18.80.060. Powers and Duties of the Commission. (a) In addition to the other powers and duties prescribed by this chapter the commission shall

"'(1) appoint an executive director approved by the governor;

"'(2) hire other administrative staff as may be necessary to the commission's function;

"'(3) exercise general supervision and direct the activities of the executive director and other administrative staff;

"'(4) accept complaints under sec. 100 of this chapter;

"'(5) study the problems of discrimination in all or specific fields of human relationships, and foster through community effort or goodwill, cooperation and conciliation among the groups and elements of the population of the state, and publish results of investigations and research as in its judgment will tend to eliminate discrimination because of race, religion, color, or national ancestry.

"'(b) In addition to the other powers and duties prescribed by this chapter the commission may

"'(1) delegate to the executive director all powers and duties given it by this chapter except the duties and powers given it by secs. 120 and 130 of this chapter;

"'(2) call upon the departments and agencies of the state, with the approval of the governor, for cooperation and assistance in carrying out this chapter;

"'(3) hold hearings under sec. 120 of this chapter, subpoena witnesses, take the testimony of any person under oath, administer oaths, and in connection therewith, to require the production for examination of books or papers relating to a matter under investigation or in question before the commission.'

"Sec. 2. AS 18.80.100 is amended to read:

"'Sec. 18.80.100 Complaint. A person who believes he is aggrieved by any discriminatory conduct prohibited by this chapter may sign and file with the commission a written, verified complaint stating the name and address of the person alleged to have engaged in discriminatory conduct and the particu- when an alleged discrimination comes to his lars of the discrimination. The executive director may file a complaint in like manner attention.'

"Sec. 3. AS 18.80.120 is amended to read:

"'Sec. 18.80.120 Hearing. If the informal efforts to eliminate the alleged discrimination are unsuccessful, the executive director shall inform the commission of the failure, and the commission shall serve written notice together with a copy of the complaint, requiring the person, employer, labor organization or employment agency, charged in the complaint to answer the allegations of the complaint at a hearing before the commission. The hearing shall be held by the commission at the place where the unlawful conduct is alleged to have occurred unless the person, employer, labor organization or employment agency requests a change of venue for good cause shown. The case in support of the complaint shall be presented before the commission by the executive director or his designee who shall be a bona fide resident of the state. The executive director may request the assistance of the Department of Law in the preparation and presentation of any complaint before the commission. The person charged in the complaint may file a written answer to the complaint and may appear at the hearing in person or otherwise, with or without council, and submit testimony. The executive director has the power reasonably and fairly to amend the complaint, and the person charged has the power reasonably and fairly to amend his answer. The commission shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and be transcribed.'

"Sec. 4. AS 18.80.130 is amended to read:

"'Sec. 18.80.130. Order. (a) At the completion of the hearing, if the commission finds that a person against whom a complaint was filed has engaged in the discriminatory conduct alleged in the complaint, it shall order him to refrain from engaging in the discriminatory conduct. The order shall include findings of fact, and may prescribe conditions on the accused's future conduct relevant to the type of discrimination. In a case involving discrimination in

"'(1) employment, the commission may order the hiring, reinstatement or upgrading of an employee with or without back pay, restoration to membership in a labor organization, or his admission to or participation in an apprenticeship training program, on-the-job training program or other retraining program;

"'(2) housing, the commission may order the sale, lease or rental of the housing accommodation to the aggrieved person if it is still available, or the sale, lease or rental of a like accommodation owned by the person against whom the complaint was filed if one is still available, or the sale, lease or rental of the next vacancy in a like accommodation, owned by the person against whom the complaint was filed.

"'(b) The order may require a report on the manner of compliance.

"'(c) If the commission finds that a person against whom a complaint was filed has not engaged in the discriminatory conduct alleged in the complaint, it shall issue and cause to be served on the complainant an order dismissing the complaint.

"'(d) A copy of the order shall be filed in all cases with the attorney general of Alaska.'

"Sec. 5. AS 18.80 is amended by adding a new section to read:

"'Sec. 18.80.135. Judicial Review and Enforcement. (a) A complainant, or person against whom a complaint is filed or other person aggrieved by an order of the commission, may obtain judicial review of the order in accordance with AS 44.62.560–44.62.570.

"'(b) The commission may obtain a court order for the enforcement of any of its orders by filing a complaint with the superior court in the judicial district in which the unlawful conduct is alleged to have occurred.'

"Sec. 6. AS 18.80 is amended by adding a new section to read:

"'ARTICLE 4. DISCRIMINATORY PRACTICES PROHIBITED.

"'Sec. 18.80.200 Purpose. (a) It is determined and declared as a matter of legislative finding that discrimination against an inhabitant, of the state because of race, religion, color, national origin, age or sex is a matter of public concern and that such discrimination not only threatens the rights and privileges of the inhabitants of the state but also menaces the institutions of the state and threatens peace, order, health, safety and general welfare of the state and its inhabitants.

"'(b) Therefore, it is the policy of the state and the purpose of this chapter to eliminate and prevent discrimination in employment, in places of public accommodation, in housing accommodations and in the sale or lease of unimproved property because of race, religion, color, national origin, or in the case of employment, because of sex or age.

"'Sec. 18.80.210 Civil Rights. The opportunity to obtain employment, public accommodations, housing accommodations and property without discrimination because of race, religion, color, or national origin is a civil right.

"'Sec. 18.80.220. Unlawful Employment Practices. It is unlawful for

"'(1) an employer to refuse employment to a person, or to bar him from employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his race, religion, color or national origin, or because of his age when the reasonable demands of the position do not require age distinction;

"'(2) a labor organization, because of a person's age, race, religion, color or national origin, to exclude or to expel him from its membership, or to discriminate in any way against one of its members or an employer or an employee;

"'(3) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication, or to use a form of application for employment or to make an inquiry in connection with prospective employment, which expresses, directly or indirectly, a limitation, specification or discrimination as to age, race, creed, color or national origin, or an intent to make the limitation, unless based upon a bona fide occupational qualification;

"'(4) an employer, labor organization or employment agency to discharge, expel or otherwise discriminate against a person because he has opposed any practices forbidden under secs. 200–280 of this chapter or because he has filed a complaint, testified or assisted in a proceeding under this chapter; or

"'(5) an employer to discriminate in the payment of wages as between the sexes, or to employ a female in an occupation in this state at a salary or wage rate less than that paid to a male employee for work of comparable character or work in the same operation, business or type of work in the same locality.

"'SEC. 18.80.230. Unlawful Practices in Places of Public Accommodation. It is unlawful for the owner, lessee, manager, agent or employee of a public accommodation

"'(1) to refuse, withhold from or deny to a person any of its services, goods, facilities,

advantages or privileges because of race, religion, color or national origin;

"'(2) to publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any of the services, goods, facilities, advantages or privileges of the public accommodation will be refused, withheld from or denied to a person of a certain race, religion, color or national origin or that the patronage of a person belonging to a particular race, creed, color or national origin is unwelcome, not desired or solicited.

"'Sec. 18.80.240 Unlawful Practices in the Sale or Rental of Property or Housing Accommodations. It is unlawful for the owner, leasee, manager or other person having the right to sell, lease or rent a housing accommodation or unimproved property

"'(1) to refuse to sell, lease or rent the housing accommodation or unimproved property to a person because of race, religion, color or national origin;

"'(2) to discriminate against a person because of race, religion, color or national origin in a term, condition or privilege relating to the use, sale, lease or rental of a housing accommodation or unimproved property; or

"'(3) to make a written or oral inquiry or record of the race, religion, color or national origin of a person seeking to buy, lease or rent a housing accommodation or unimproved property.

"'Sec. 18.80.250. Unlawful Financing Practice. It is unlawful for a financial institution, upon receiving an application for financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of a housing accommodation or the acquisition or improvement of unimproved property, to permit one of its officials or employees during the execution of his duties.

"'(1) to discriminate against the applicant because of race, religion, color or national origin in a term, condition or privilege relating to the obtainment or use of the institution's financial assistance; or

"'(2) to make or cause to be made a written or oral inquiry or record of the race, religion, color or national origin of a person seeking the institution's financial assistance.

"'Sec. 18.80.260. Coercion. It is unlawful for a person to aid, abet, incite, compel or coerce the doing of an act forbidden under this chapter or to attempt to do so.

"'Sec. 18.80.270. Penalty. A person, employer, labor organization or employment agency, who or which wilfully engages in an unlawful discriminatory conduct prohibited by this chapter, or wilfully resists, prevents, impedes or interferes with the commission or any of its authorized representatives in the performance of duty under this chapter, or who or which wilfully violates an order of the commission, is guilty of a misdemeanor and upon conviction by a court of competent jurisdiction is punishable by a fine of not more than $500, or by imprisonment in a jail for not more than 30 days, or by both.

"'Sec. 18.80.280. Acquittal Bars Other Actions. The acquittal of a person by the commission or a court of competent jurisdiction of any alleged violation of this chapter is a bar to any other action, civil or criminal, based on the same act or omission.

"'ARTICLE 5. GENERAL PROVISIONS.

"'Sec. 18.80.300. Definitions. In this chapter

"'(1) "person" means one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, employees, employers, employment agencies or labor organizations;

"'(2) "employee" means an individual employed by an employer but does not include an individual employed in the domestic service of any person;

"'(3) "employer" means an employer of one or more persons in the state but does not include a club that is exclusively social, or a fraternal, charitable, educational, or religious association or corporation, if the club, association or corporation is not organized for private profit;

"'(4) "employment agency" means a person undertaking to procure employees or opportunities to work;

"'(5) "labor organization" means an organization and an agent of the organization, for the purpose, in whole or in part, of collective bargaining, dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection of employees;

"'(6) "national origin" includes ancestry;

"'(7) "public accommodation" means a place which caters or offers its services, goods or facilities to the general public and includes a public inn, restaurant, eating house, hotel, motel, soda fountain, soft drink parlor, tavern, night club, roadhouse, place where food or spiritous or malt liquors are sold for consumption, trailer park, resort, campground, barber shop, beauty parlor, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company and all other public amusement and business establishments, subject only to the conditions and limitations established by law and applicable alike to all persons;

"'(8) "housing accommodation" means a building or portion of a building, whether constructed or to be constructed, which is or will be used as the sleeping quarters of its occupants;

"'(9) "financial institution" means a commercial bank, trust company, mutual savings bank, cooperative bank, homestead association, mutual savings and loan association or an insurance company.'

"Sec. 7. AS 23.10 is amended by adding a new section to read:

"'ARTICLE 5. DISCRIMINATION IN EMPLOYMENT.

"'Sec. 23.10.192. Discrimination Prohibited. Discrimination in the employment of a person because of race, religion, color, national origin or age is prohibited as set out in AS 18.80.220.

"'Sec. 8. AS 23.10.190–23.10.235, 23.10.240–23.10.320, 11.60.230 and 11.60.240 are repealed.

"'Sec. 9. This Act take effect on the day after its passage and approval or on the day it becomes law without such approval.'

Mr. GRUENING. Mr. President, on the national scene the late President John F. Kennedy helped us to move forward.

And President Lyndon Baines Johnson cannot be praised too highly for his contributions to greater understanding and progress in the field of civil rights. On June 4, 1965, at Howard University here in Washington, D.C., he reminded us that the voting rights bill marked perhaps the end of the beginning. Too many Negroes he told us correctly are trapped, as were many whites—

In inherited, gateless poverty. They lack training and skills. They are shut in slums, without decent medical care. Private and public poverty combine to cripple their capacities.

America, said President Johnson, would attack these miseries through the Great Society programs aimed at the root causes of poverty.

The President reminded us that day—

Men are shaped by their world. When it is a world of decay, ringed by an invisible wall, when escape is arduous and uncertain, and the saving pressures of a more hopeful society are unknown, it can cripple the youth and it can desolate the man.

He spoke of the unemployment of the Negro, of the breakdown of the Negro family structure, and of other problems, and he said:

There is no single easy answer to all of these problems. Jobs are part of the answer. They bring the income which permits a man to provide for his family. Decent homes in decent surroundings and a chance to learn—an equal chance to learn—are part of the answer. Welfare and social programs better designed to hold families together are part of the answer. Care for the sick is part of the answer. And an understanding heart by all Americans is another big part of the answer. And to all these fronts—and a dozen more—I will dedicate the expanding efforts of the Johnson administration.

In the 88th Congress we passed the Votings Rights Act of 1965, based to a large extent on President Johnson's recommendation.

This year we are considering his message of April 28 requesting reform in our Federal criminal statutes, jury reforms, school desegregation, equal employment and fair housing.

Said President Johnson:

We must give the Negro the right to live in freedom among his fellow Americans . . . Our task is to end discrimination in all housing, old and new—not simply in the new housing covered by the Executive order . . .

It is pertinent to recall today the concluding portion of the President's April 28, 1966, message on the elimination of racial discrimination when he said:

We are engaged in a great adventure—as great as that of the last century, when our fathers marched to the western frontier. Our frontier today is of human beings, not of land.

If we are able to open that frontier, to free each child to become the best that is in him to become, our reward—both spiritual and material—will exceed any that we gained a century ago through territorial expansion.

Whether we shall succeed is an issue that rests in the heart of every American. It rests in the determination of Negro Americans to use the opportunities for orderly progress that are now becoming—at last—a reality in their lives. It rests in our common willingness to expand those opportunities in the years ahead.

That issue can and will be decided in only one way. For we have not come this far to fail within sight of our goal.

But extremism is, as we learn, sometimes inevitable, as part of a troubled heritage. True, voting bills are passed. The right to register and to vote is assured by law. But where are the jobs? The houses? The instant education? Without them extremism flourishes.

Despite the filibuster with which we now contend, my hope is that we will get action this session on the proposed 1966 Civil Rights amendments. The bill in its present form is reasonable. It will correct some of the inequities.

If we do not act affirmatively this session, we must try again in the next Congress. We must not cease or diminish our efforts toward eliminating, as far as may be humanly possible, all vestiges of discrimination based on race, creed, or color.

The New York Times on September 11, Sunday, carried a report by Mr. Leonard Buder entitled "Integration Gaining." Mr. Buder reports on hopeful signs of new progress toward school integration.

The same issue of the New York Times had a story originating in Birmingham, Ala., concerning complaints filed by the NAACP against several major unions and companies charged with job discrimination.

Mr. President, I ask unanimous consent that the full text of these news stories to which I have referred be printed in the RECORD at the close of my remarks.

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

(See exhibit 1.)

Mr. GRUENING. I have talked today of some progress in integration, and I would be remiss if I did not mention another sign, the fact that one of the candidates for a U.S. Senate seat, open because our good friend and colleague the senior Senator from Massachusetts [Mr. SALTONSTALL] is retiring, is a qualified, colored man who has been elected to high office by the citizens of his State. Integration is proceeding.

EXHIBIT 1

[From the New York Times, Sept. 11, 1966]

INTEGRATION GAINING

(By Leonard Buder)

Until about five years ago school segregation was regarded as largely a Southern problem. Integration was a major issue in perhaps no more than half a dozen Northern school systems.

Then the realization set in, sparked largely by pressures from civil rights groups, that school segregation was a problem whether it was the result of discriminatory laws (as in the South) or discriminatory practices or subtle prejudices (as in the North).

Last week, as most of the nation's schools reopened for the new academic year—the late starters will open tomorrow—there were hopeful signs of new progress toward school integration.

In Washington, the United States Commissioner of Education, Harold Howe 2d, predicted that there would be as much progress this school year as in the previous 12 years since the historic United States Supreme Court decision on school segregation.

Most of the progress, Mr. Howe said, will take place in the South.

In New York City, the National Association for the Advancement of Colored People issued a report on its four-and-a-half-year campaign to promote school integration in the North, which now involves 130 public school systems in 22 states. In about two-thirds of these systems, some progress toward integration has been made—although it has often been no more than tokenism.

The gains have been greater in the suburban systems and smaller cities, Miss June Shagaloff, the association's national education director, noted. And frequently, she added, they have come about not through enlightened school leadership but as the result of "extended community pressure, protest demonstrations and litigation."

Northern and Western school systems where total or substantial desegregation will take place for the first time this fall, the report said, include Albany, Amityville and Roosevelt, N.Y.; Lansing, Mich.; and Sacramento, Carlsbad, Fullerton, Riverside, Indio and Fresno, Calif. New plans expanding existing desegregation efforts will take place in Freeport and Malverne, N.Y.; Stamford, Conn.; Englewood and Montclair, N.J.; Denver; and Sausalito and Berkeley, Calif.

PLANS HELD "INADEQUATE"

The desegregation efforts employed in these communities, Miss Shagaloff observed, range from school pairing and rezoning to closing old, all-Negro schools and establishing new primary and intermediate schools.

New but limited (and "inadequate," according to the N.A.A.C.P.) desegregation plans will go into effect in a number of other communities, including Bridgeport, Conn.; Cincinnati, Des Moines, Iowa; Detroit and Indianapolis.

All told, some 38 school districts in the North and West have taken steps to desegregate, including New York City, which has embarked on a reorganization that will result in a new system of primary, intermediate and comprehensive high schools. Another 42 communities will continue desegregation efforts started since 1962. And a few others have announced plans to take effect next year.

In other communities, however, school officials have been evasive, Miss Shagaloff said.

"But the problem," Miss Shagaloff added, "is not that of administrative know-how—it is the unwillingness to change the status quo."

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[From the New York Times, Sept. 10, 1966]

MRS. MOTLEY INDUCTED AS FEDERAL JUDGE

(By Paul Hofmann)

Mrs. Constance Bauer Motley was sworn in as a Federal Judge yesterday and Mayor Lindsay called a special meeting of Manhattan Councilmen for Tuesday to choose her successor as Borough President.

Mrs. Motley was inducted in a short ceremony at the United States Court House. She is the first Negro woman in the country's history to hold a Federal judgeship and the first woman member of the Federal Court for the Southern District of New York, which covers New York, the Bronx, Columbia, Dutchess, Greene, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester counties.

The selection of a new Manhattan Borough President will test the influence of J. Raymond Jones, New York County Democratic leader. Political observers expressed the view yesterday that Mr. Jones might want to seize the occasion to reassert his leadership, which had been challenged in the recent Surrogate election.

The Democratic leader, who is also a Councilman, has said that he did not seek the post of Borough President himself.

Six of the eight Manhattan Councilmen are Democrats and two are Republicans. There was little doubt yesterday that the group's choice for a Borough President would again be a Democrat, as Mrs. Motley and all her recent predecessors have been.

Percy E. Sutton, Harlem Assemblyman, is regarded as a leading candidate for the position, which pays $35,000 a year. He is known to have the backing of Mr. Jones. His election would continue a 12-year-old practice of naming Negroes as Manhattan Borough President.

Others mentioned as possible candidates were Assemblyman Louis De Salvio; Lloyd K. Garrison, president of the Board of Education; Mrs. Randolph C. Guggenheimer, a member of the City Planning Commission, and Mrs. Hortense W. Gabel, who was the city's Rent and Rehabilitation Administrator under Mayor Robert F. Wagner.

The Borough President to be chosen by the Manhattan Councilmen under the City Charter's provisions for filling a vacancy will serve until Dec. 31. At the general election in November a new Borough President will be elected for the three years remaining of Mrs. Motley's term.

Mrs. Motley herself became Borough President on an interim basis in 1965 when Edward Dudley left that post to become a State Supreme Court justice. She was elected to a four-year term last November with the backing of the Democratic, Liberal and Republican parties.

Observers believe that whoever is appointed interim Borough President will have a good chance of being nominated by the Democrats and possibly by the other parties for election in November.

BACKING FOR SUTTON

There were indications last night that at least three Councilmen, and possibly more, were committed to voting for Mr. Sutton at the closed meeting to be held in the Mayor's office starting at 2:30 P.M. Tuesday. The Mayor will preside, but he is entitled to vote only to break a tie.

No Councilman expressed outright support for Mr. Sutton, but Gerald B. Friedland, son of David B. Friedland, a Democrat who was on his way back from the Democratic state convention in Buffalo, said that "Father thinks a great deal of Percy Sutton." Mr. Friedland is a supporter of Mr. Jones.

The Democratic county leader was not available for comment, and aides at his office declared he could "not be contacted."

Mr. Jones' position in the party was believed to have been strengthened by his role in swinging the 112-man Manhattan delegation behind Howard J. Samuel as nominee for Lieutenant Governor in Buffalo on Thursday.

Robert A. Low, a Democratic-Liberal Councilman, said that the participants in the Buffalo convention had given little thought to the question of who should succeed Mr. Motley, and that no party candidate for the post had yet emerged.

Councilman Saul S. Sharison, a Democrat who on other issues has been in agreement with Mr. Jones, said "my candidate is Louis De Salvio." Mr. Sharison denounced as "illegal, unethical and improper" any practices that assigned certain jobs exclusively to Negroes or any other racial or religious group.

REPUBLICANS SIT TIGHT

Councilmen Lester Baum and Woodward Kingman, the top Manhattan Republicans, seemed inclined to let the Democrats make the first move. Mr. Kingman spoke highly of Mr. Jones' role in the City Council. Councilman Carlos M. Rios, a Democrat, could not be reached.

Mrs. Motley did not discuss the question of who would succeed her as Borough President when she took the oath as Federal judge yesterday. The 44-year-old newcomer to the bench said she felt "like going back home," recalling that she had appeared as a civil rights lawyer in the courts of 11 states.

Solicitor General Thurgood Marshall, who once worked with Mrs. Motley in the National Association for the Advancement of Colored People, attended the 10-minute ceremony at which 18 district judges also were present.

Mrs. Motley's husband, Joel, a real estate and insurance broker, and their 14-year-old son, Joel Jr., watched as she was sworn in by Chief Judge Sylvester J. Ryan.

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JOB DISCRIMINATION IS CHARGED IN SIX SUITS BY NAACP FUND

BIRMINGHAM, ALA., September 9.—A Federal judge heard testimony today against several major unions and companies charged with job discrimination against Negroes. The companies include the United States Steel Corporation.

The hearing was conducted in the courtroom of District Judge Clarence W. Allgood.

Complaints against the defendants were filed recently by the N.A.A.C.P. Legal Defense and Educational Fund, Inc.

The allegations in most of the six suits say the defendants maintain separate job categories based on race, have different hiring rates for Negroes and whites and separate lines of progression and promotion, and segregated facilities for Negro employes.

The suits were filed under Title VII of the Civil Rights Act of 1964.

Unions are named as codefendants in four of the cases. The unions are charged by the civil rights organizations with failure to properly represent the Negro employes.

The unions involved in the suits are the Brotherhood of Railway Car Men of America, the International Molders and Allied Workers Union, the United Steel Workers of America, and the United Mine Workers.

The companies charged in the suit are United States Steel, the St. Louis-San Francisco Railroad Corporation, H. K. Porter, Alabama By-Products Corporation, and the American Cast Iron Pipe Company.

The defending companies have answered the complaints with counter motions requesting dismissal of the court action. They say that the plaintiffs have no legal ground and have not exhausted existing contractual remedies.

Mr. GRUENING. Mr. President, I also ask unanimous consent that two excellent editorials properly commenting on the infamy in Grenada, Miss., be printed in the RECORD at this point.

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

AND THEY SLEEP AT NIGHT

Grenada is a community of some 8,000 people in northern Mississippi. It will long be remembered as the scene of the most contemptible outrage in that state's tortured history of school desgeregation.

As classes began on Monday some 150 Negroes entered Grenada's two previously all-white schools—an elementary and a high school. A crowd estimated at some 400 white men and women gathered. As the Negro children were leaving, some of the white men, big brave ones no doubt, attacked the children with axe handles and other weapons. One boy's leg was broken and three others required hospital treatment. Meanwhile, the white women cursed the children and the local police stood around doing nothing. The wonder is that any of these barbarians can sleep at night.

A detail of 175 Mississippi state patrolmen belatedly restored order. Presumably, they will provide the necessary protection for the Negro children in the future. But why was not the needed protection available at the outset? And why have there been no arrests of those who swung the axe handles or, for that matter, of the local police officers who looked on and did nothing? Surely the identities of both must be known.

Mississippi's Governor Paul Johnson is quoted as saying that "those who raise the sword of violence will be met by the sword of law enforcement." This is not very good, even as a piece of rhetoric. It is much worse if it is nothing but rhetoric.

Mississippi, in the undoubtedly difficult matter of school desegregation, had seemed to be emerging from the darkness. But Grenada argues otherwise. If Governor Johnson understands the enormity of the damage which has been done to his state's reputation, he will do more than talk about law enforcement. If he doesn't do more, the federal authorities should use every means at their disposal to see to it that Grenada's child-beaters and the police who stood by are severely punished for their crimes.

[From the Washington (D.C.) Daily News, Sept. 14, 1966]

GOVERNMENT WITHOUT HONOR

A 12-year-old Negro child, his leg broken, was forced to crawl a gantlet of screaming white men swinging ax handles and chains. Finally, weeping, bruised and bleeding, the boy was rescued and taken to a hospital.

This gives an idea of the senseless mob in front of the Grenada, Miss., schools Monday. It is easy to agree with Mississippi Gov. Paul Johnson that they were the dregs of that northern Mississippi community. But what will you say of the police who stood by, refusing to act? Greneda officials, in the words of the suit filed yesterday by the Justice Department, knew that there was "imminent danger" and "wilfully failed to provide adequate protection * * * when Negro children were to commence classes."

Gov. Johnson moved in state troopers late in the day, announcing that "those who raise the sword of violence will be met by the sword of law enforcement." If those trite and vainglorious words mean someone is going to be arrested and punished, we await some news of it. The troopers arrested no one Tuesday, when children again were harassed.

Incidentally three newsmen, two from a sister Scripps-Howard newspaper, The Memphis Press-Scimitar, also were beaten by the mob. This raises the question of freedom of the press, but savages who would thus mistreat innocent children hardly could be expected to respect, or even remotely comprehend, the subtler safeguards of the U.S. Constitution. Newsmen who try to keep the public informed in such cases take chances similar to those covering the war in Viet Nam. Those who went to Grenada Monday were lucky to escape with only cuts and bruises.

There is no excuse either for the black mobsters in Atlanta, Chicago, and other cities. But at least they haven't deliberately mistreated children. They have, after a fashion at least, picked on someone their own size—altho children have suffered from their acts.

Much of the unrest and feeling of frustration in this country stems from failure of government, local, state and national, to enforce the laws against crime—cringing in fear of political consequences if they challenge these criminals, black or white. This has encouraged disrespect for all law, as is evidenced by the crime rate—up eight per cent from last year according to the FBI report, just made public.

Enforcement of domestic order is a first obligation of government—an obligation repeatedly defaulted by officialdom both North and South. Until our various subdivisions of government perform their routine police functions, there can be little hope of rational settlement in the nagging problem of civil rights. Ours is a Government in grave danger of losing the respect of its people.

## MEXICO'S INDEPENDENCE: A HERITAGE OF FREEDOM

Mr. TOWER. Mr. President, September 16 marks the 156th anniversary of Mexican independence. On September 15, at midnight, President Gustavo Diaz Ordaz will greet a crowd of 100,000 or so from the balcony of the brilliantly lighted national palace.

One hundred and fifty miles to the northwest of Mexico City lies a town with the beautiful name of Dolores Hidalgo. In Dolores Hidalgo the church bells will peal a little longer than usual on September 16 but otherwise its rural quiet will remain undisturbed.

Yet it was in Dolores Hidalgo that the struggle for Mexican independence began. From the steps of the church of the pueblo then known as Dolores the parish priest, Father Miguel Hidalgo y Costilla gave voice to the cry that roused Mexico to revolution against Spain.

Hidalgo had been involved in a revolutionary plot with the area militia leader, but the plans were discovered and several arrests were made on September 13 in Queretaro, 50 miles to the southeast of Dolores. When this news was brought to Hidalgo he called for immediate revolt against Spain.

Hidalgo's Indian-peasant forces captured Alhondigo de Granaditas on September 28 and had swept on to the outskirts of Mexico City by late October.

There Hidalgo's undisciplined forces were defeated and Hidalgo was finally captured near Saltillo on February 21, 1811. He died before a firing squad at Chihuahua on July 31, less than 11 months after the "Grito" of Dolores.

Although his uprising failed and another decade was to pass before Mexico became independent the obscure but courageous parish priest is hailed as the father of his country.

The place where it all began, now officially named Dolores Hidalgo, rates as a national shrine. It is called "La Cuna de la Independencia," the cradle of the independence and liberty which the Mexican people treasure so fervently.

All Texans and all Americans join in good wishes to our neighboring Republic on this occasion of its national holiday. Throughout my State Americans of Latin heritage will be holding special celebrations to mark the occasion. I particularly regret that my heavy schedule has prevented me from accepting numerous invitations to participate in various of these celebrations.

All Americans recognize the heritage of strong pride, independence, and accomplishment which is embodied in the September 16 celebration. Our Nation is privileged to be associated with such people.

May our friendship endure forever.

## AMERICANS FOR CONSTITUTIONAL ACTION

Mr. McGOVERN. Mr. President, recently an organization called the Americans for Constitutional Action attempted to determine the conservatism of Members of the Congress based on their voting record for the first 6 months of 1966. The organization made its determination of the conservative record of Congress by selecting 17 votes that were thought to be of special significance.

I must say, after studying the scores which various Members of the Senate secured under this formula, that the Americans for Constitutional Action must indeed have an unusual definition of conservatism.

Here are some of the interesting highlights of the analysis:

The distinguished Senators from New York [Mr. JAVITS and Mr. KENNEDY] compiled a conservative score of 33 percent, whereas the distinguished Senators

from Florida [Mr. HOLLAND and Mr. SMATHERS] were considered by this organization to be conservative only 29 percent and 20 percent of the time, respectively.

The distinguished Senators from Georgia [Mr. RUSSELL and Mr. TALMADGE] were listed exactly the same as Senators JAVITS and KENNEDY, with conservative scores of 33 percent.

The distinguished Senators from Arkansas [Mr. FULBRIGHT and Mr. MCCLELLAN] came up with Senator FULBRIGHT in a 6-point lead over Senator MCCLELLAN as a conservative—27 to 21.

In California, Senator KUCHEL was considered to be 11 percent more conservative than Senator MURPHY, with Senator KUCHEL scoring 73 and Senator MURPHY 62.

The distinguished Senator from Pennsylvania [Mr. CLARK] was conservative 21 percent of the time, which according to the ACA rating makes him three times as conservative as the Senator from Louisiana [Mr. LONG], who came up with a 7-percent rating.

The distinguished Senator from Illinois [Mr. DOUGLAS], who is sometimes listed as a liberal, nevertheless compiled a rather respectable 25-percent conservative rating, which places him 3 points ahead of the distinguished senior Senator from Louisiana [Mr. ELLENDER], who is considered conservative only 22 percent of the time.

I am sure that these illustrations make clear to everyone what a conservative is. Actually, I had thought that my own conservative credentials were somewhat improved when I voted for the following reductions in Federal spending:

First, a $200 million reduction on the supersonic transport plane.

Second, a $500 million reduction on the race to the moon.

Third, an $892 million reduction in military foreign aid.

Fourth, a $153 million reduction for the antiballistic missile.

Fifth, a $522 million reduction in arms spending, not requested by the Department of Defense.

I also voted against the repeal of section 14(b) of the Taft-Hartley Act, which I thought was a conservative priority issue.

Yet the Americans for Constitutional Action gave me only an 8-percent rating. I am consoled, however, by the knowledge that the distinguished deputy majority leader, the Senator from Louisiana [Mr. LONG], had a score of 7 percent, and the distinguished senior Senator from the Lone Star State of Texas [Mr. YARBOROUGH] had a score of 6 percent.

Interestingly enough, the gracious Senator from Oregon [Mrs. NEUBERGER] who has announced that she is not seeking reelection, and is therefore free from all political pressures and lobbying interests, came up with the only score of zero in the Senate.

All of this leaves me a little uncertain as to whether I should be proud, embarrassed, or indifferent about my score of 8 percent on the ACA index.

## OUR EUROPEAN ALLIES CONSIDER NATO OUTDATED

Mr. GRUENING. Mr. President, in an excellent article in the Washington Evening Star of September 8, 1966, Mr. Crosby S. Noyes points out a fact which should have long since been recognized by the administration—that the United States stands virtually alone among its European allies in insisting that the NATO concepts of 15 years ago continue to be fully applicable to today's world. As I discovered on my recent trip to Europe, and about which I spoke at considerable length on August 23, 1966, the administration's insistence that the threat of overt Soviet aggression requires the maintenance of large land forces to fight a conventional war, is simply not viewed as any longer a realistic assessment of European security requirements by the very countries most concerned. Mr. Noyes finds that Senator MANSFIELD's proposal for a reduction in the forces committed in Europe has not dismayed our NATO allies, but on the contrary does not go far enough. Mr. Noyes writes:

Europeans today are inclined to go a good deal further than Senator MANSFIELD does in considering NATO as outdated and a bit old hat. They have long since ceased to "regard its massive military apparatus as essential to their security. When a De Gaulle speaks of the need of putting an end to the rigid attitudes of the Cold War in seeking political solutions for Europe's problems, he strikes a responsive chord in many countries."

The resolution sponsored by Senator MANSFIELD and 25 other Senators is neither intemperate nor ill timed. It reflects the overwhelming sentiment of Europeans that NATO's effectiveness in 1966 does not depend on the maintenance of large numbers of conventional forces in Europe. With the withdrawal of France from the NATO organization and the continued reluctance of the other European countries to meet the goals of their forces' contributions established 15 years ago, it should be only a matter of time before the United States begins to recognize the need for a reevaluation of NATO concepts. The longer such recognition is delayed, the longer will be the day when a start is made to seeking more meaningful arrangements for the eventual political integration of Europe and for a solution of the cold war.

I ask unanimous consent that Mr. Noyes' article in the Washington Evening Star of September 8, 1966, be inserted in the RECORD.

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

[From the Washington Evening Star, Sept. 8, 1966]

PRACTICAL POINTS FAVOR U.S. TROOP CUT IN EUROPE

(By Crosby S. Noyes)

The practical arguments in favor of a serious reduction in the size of American forces in Europe are overwhelming. And continuing protests from the administration that no cuts are now being planned are lacking in real conviction.

President Johnson, of course, does not react kindly to gratuitous advice on problems involving U.S. security abroad. He is especially unreceptive when the advice happens to come from a group of senators who contend, as a matter of general philosophy, that the United States is "overextended" in its foreign commitments.

No doubt, too, there is a certain embarrassment to the administration in raising the issue at this particular time.

The calculated American response to Gen. Charles de Gaulle's withdrawal of France from NATO's military structure has been to reaffirm and reinforce our own commitment to the alliance. We are trying to keep the hard-pressed British from making drastic cuts in their own Army of the Rhine. We are actively dickering with the Germans to get them to assume a greater share of the cost of maintaining the forces already in place.

All of these problems would certainly be affected in the short term by a decision to withdraw, say, four of the six American divisions that make up the U.S. Seventh Army in Germany. But it is also fair to ask whether concerns such as these are of overriding importance in terms of larger American interests. Or whether the ideal moment for reducing our forces in Europe will ever arrive.

No one is suggesting, of course, that we should, as Johnson says, "carelessly weaken" the alliance by rash unilateral action. Any proposal for troop cuts would naturally be a subject for discussion within the alliance. And such discussions, in fact, could amount to an eye-opening experience for Americans whose attitudes toward NATO have changed very little over the last 15 years.

Europeans today are inclined to go a good deal further than Senator MANSFIELD does in considering NATO as outdated and a bit old hat. They have long since ceased to regard its massive military apparatus as essential to their security. When a De Gaulle speaks of the need of putting an end to the "rigid attitudes" of the Cold War in seeking political solutions for Europe's problems, he strikes a responsive chord in many countries.

It may also come as something of a surprise to discover that many Europeans no longer look on NATO as an effective unifying force in Western Europe.

The Common Market and other joint economic and political organizations provide the real framework for cooperation between the European countries. Indeed, given the differing attitudes toward NATO—and especially De Gaulle's contention that the organization is simply a mechanism to ensure a continuing American "hegemony" in Europe—it makes for conflict and division among our major allies.

The Germans, perhaps, are a special case.

Much of the opposition to a cut in troop strength in Europe reflects the concern of U.S. policy planners over the psychological effect of such a decision in Germany. In Washington, there is a conviction that German stability depends on the firm American military commitment in Europe and that any impression that the United States was backing out of this commitment could have disastrous results.

Yet curiously enough, the talk of a possible American troop cut has so far produced no signs of panic in Germany. There is little evidence that the average German would look on the departure of some American forces as a grave threat to his own security. Certainly there is nothing to support the alarming notion that Germany could be "forced into the arms of the Russians" or, as an alternative nightmare, start building its own atomic bombs.

Europeans, for the most part, are perfectly well aware of the fact that their security

would be as thoroughly guaranteed by two American divisions in Germany as it is by six. Even without the strains on money and manpower imposed by the war in Viet Nam, the logic of maintaining nearly a million American servicemen and their families in Europe would be open to serious question. And the question is sure, to be raised with increasing urgency in the months to come.

## TRAFFIC SAFETY ACT OF 1966

Mr. TOWER. Mr. President, the Senate has given its final authorization to the Traffic Safety Act of 1966. This legislation has wide-reaching effects that will benefit all Americans by making travel even safer and less hazardous.

This legislation will strengthen and give even greater respect to the automotive industry. One out of every six Americans is employed in this industry or in the provision of automotive components or in the service of automotive vehicles. The industry's growth and productivity have been outstanding. American cars, whatever their few shortcomings, are among the world's safest. With respect to critical components such as lights, brakes, and suspension systems, the automobile of 1966 demonstrates even greater improvement over its predecessors. Of course, the public should remain concerned over safe driving habits while also taking into account the role that the car itself plays in preventing accidents.

The "second collision," the impact of the individual within the vehicle against the steering wheel, dashboard, windshield, has often been overlooked. Many such injuries could be avoided by more careful design of the interior of automobiles.

With the varied State regulations and the Federal seat belt and brake fluid laws, the automobile sold generally in interstate commerce is today subject to the standards produced by the committees of the Society of Automotive Engineers. But there often exists no procedures for their universal adoption, monitoring of their use, or evaluating their effectiveness. While the General Services Administration has the authority to set the safety standards for the vehicles which the Government purchases, States have begun increasingly to set up their own safety checks of automobile parts and accessories. Universal adoption by all States of such safety procedures would prove most effective in preventing injuries and accidents.

The scope and content of the bill are wide and varied. More standards adopted by the States and Federal Government will help to assure the American car buyer that his new purchase is better checked and safer. Research on accident and injury prevention contributes to the quality of the industry's safety performance, and aids in bringing about greater assurance of continued safety and new methods of auto accident prevention. This legislation, which covers not only passenger cars, but buses, trucks, and motorcycles, assigns some responsibility for the administration of safety standards and research to the Secretary of Commerce, but leaves much room for State legislatures to set up their own programs of research as well as providing for possible future extension of these standards to used cars.

The centralized, mass production, high-volume character of the motor vehicle manufacturing industry in the United States requires that motor vehicle safety standards be not only strong and adequately enforced, but at the same time respecting and allowing State legislatures to further their own safety programs. In an era when transportation affects all Americans every day, the Federal, State, and local governments can cooperate in serving the American people by seeing to it that safety in construction of vehicles is increased. The Traffic Safety Act of 1966 endeavors to bring about a safer society for all Americans.

## OEO LEGAL SERVICES PROGRAM

Mr. KENNEDY of Massachusetts. Mr. President, one of the most important programs of the war on poverty is that which provides legal services to the poor. The need for this program is so great and the past year's record of the Legal Services Department of the Office of Economic Opportunity is so impressive that I wish to invite the special attention of the Senate to it. The impact of this program is only beginning to be felt, yet the results are already most favorable.

It has long been recognized that the poor lack adequate access to legal services. Legal offices located in the heart of the center city often are unknown to and out of reach of the inhabitants of poverty areas; and, of course, even if access to the legal services is possible, the cost of such services is usually beyond the poor man's means.

The absence of legal services for the poor only serves to accentuate the cycle of poverty. As the recent hearings on urban problems before Senator RIBICOFF's subcommittee demonstrated and as the Attorney General has stated:

> The scales are now tipped against the poor. . . . too often, the poor man sees the law only as something which garnishes his salary; which repossesses his refrigerator; which evicts him from his house; which cancels his welfare; which binds him to usury; or which deprives him of his liberty because he cannot afford bail.

Poverty means constant debt, and the impoverished person is often the prey of the unscrupulous merchant and lender. Legal services attorneys are reporting cases in which merchants have charged two or three times the usual retail price for television sets and other appliances; in which used merchandise was sold as new; in which signatures were obtained to blank contracts and later written in exorbitant terms; and in which quality and price have been misrepresented.

There is a wealth of evidence of slum landlords charging high rents and failing to provide minimum facilities required by health and safety ordinances. It is equally clear that slum tenants are unaware of their rights in such situations, unaware of avenues of enforcement against such slumlords, and afraid of eviction in the event of retaliatory complaint. The same holds true in the area of public welfare, where recipients are often denied assistance on arbitrary or unexplained grounds, are subjected to midnight eligibility checks, or are unaware of their eligibility for assistance or the appropriate method of application. Indeed as the Senator from Connecticut [Mr. RIBICOFF] so vividly pointed out recently, all too often the ultimate recipient of the welfare payments we make to the poor is the slumlord himself.

For many years, legal aid societies, local bar associations, and attorneys acting individually have attempted to assist the poor with their legal problems. The legal profession, however, has recognized that its past efforts have been inadequate to meet the greatly increasing demands and have looked upon the legal services program of the Office of Economic Opportunity as affording an excellent opportunity to extend the services of lawyers to all persons unable to afford them.

On February 8, 1965, the house of delegates of the American Bar Association adopted a resolution directing its officers to cooperate with the Office of Economic Opportunity in expanding legal services to persons of low income. The National Bar Association and the National Legal Aid and Defender Association gave their strong backing to the OEO program. These organizations have cosponsored several regional conferences for lawyers on how to implement legal services programs, and have actively encouraged bar associations and legal aid societies to work closely with the OEO. The results speak for themselves. The OEO provided $27 million for legal aid programs in 1966 compared with a total annual expenditure of around $5 million by legal aid societies.

Orison S. Marden, president of the American Bar Association, says of this program:

> The Legal Services Program gives to our profession a golden opportunity to move forward more rapidly than we had ever thought possible in serving the legal needs of the poor.

These are the remarks of Theodore Voorhees, president of the National Legal Aid and Defender Association:

> For the first time in history, a truly resourceful, imaginative and novel approach has been developed to eradicate poverty and the indignity and inequality that are a part of it . . . the Program provides means for achieving goals long aimed at by the NLADA and the Bar—the extension of Organized Legal Aid on a scale that will make a reality of the ideal of Equal Justice under Law.

The first-year performance of this Office of Economic Opportunity program has been impressive indeed. In fiscal 1966, 163 legal services programs were funded totaling $27 million. Programs were funded in 43 of the 50 States, including all of the Nation's 12 largest cities and 37 of the 50 largest cities and nearly $8 million in grants were allocated to provide needed legal assistance to indigents in medium-size communities.

What are the lawyers who are working among our poor in this program doing to assist in alleviating deplorable

conditions? The answer is that they are providing practical daily assistance which can help a poor man to lift himself up, thus giving him new confidence and new hope.

Most of us are well aware that a lawyer can ease our difficulties if we have a conflict with the Government, the police, the mortgage banker, or even our neighbors. The poor live in constant conflict. What might seem a simple matter to many of us may, indeed, complicate every working hour of the slum dweller, even to the extent of drastically affecting a person's ability to earn a living for his family.

Recent reports from an experimental rural northern Wisconsin program have indicated that an overwhelming percentage of persons seeking free legal advice are seeking a divorce. These figures must not be allowed to distort the national picture, however. Reports coming to the OEO from 160 other programs throughout the country show that less than 30 percent of all cases relate to domestic relations problems, including such matters as divorce, annulments, and paternity cases.

Neighborhood offices located deep in our city slums are reporting heavy caseloads of consumer lending, landlord-tenant, and welfare problems.

As a result of neighborhood legal services, landlords are becoming increasingly aware that they no longer can violate the housing codes, and that they face possible legal action if they do not properly maintain their property.

Bringing the work of lawyers to the slums is handling individual cases and more; it is also providing education so that the people will understand what their rights are. Most of the programs funded by the OEO provide this education. In many communities volunteer lawyers are working with the legal services program, giving lectures, preparing pamphlets, and conducting public school programs.

But it is also more than that. The citizens of our slums have come to know the law only as their enemy; and, therefore, have often given the law little respect. When they witness daily the way in which the law is used against them by the rest of the community, they lose faith in our system of justice. It has been said:

> Injustice makes us want to pull things down.

Our great system has endured because of the belief of the American people in equal justice under the law. It will not continue to endure for any of us if it is not available to all of us.

If self-reliance, hope, and ambition are to be restored to the poor, they must be assured that there is in fact "equal justice under law"; that the theory advanced by Oliver Goldsmith two centuries ago, that "laws grind the poor and rich men rule the law," no longer applies to 20th-century America.

I think this is what President Johnson had in mind in his Syracuse speech of August 19, when he called for an increase in the number of neighborhood legal centers "to help every tenant procure his right of safe and sanitary housing" and to insure that "the profit is taken out of poverty." It is only in this way that we can offer to the slum dweller new hope and confidence. If the slums are to be eradicated, people who live in them must have this hope and confidence.

It is in recognition of the importance of this new program both to the war on poverty and to the basic idea of equal justice under law that this program has received such overwhelming support from the legal community, including the American Bar Association, the National Legal Aid and Defender Association, the National Bar Association, and the American Trial Lawyers Association.

The program has had an impressive beginning. But if it is to realize its full potential it must continue to receive our support, and the services provided by the program must be made available in the many communities which presently do not have them, but which are anxious to secure them. In addition, the support of the Congress is needed in order that the program can develop new legal tools in the area of urban problems through the funding of projects in our law schools and research agencies relating to urban housing, community legal education techniques, and the extension of law school services to the poor.

In order to help other Senators to appraise for themselves the worth of this program I ask unanimous consent to have printed in the RECORD the following documents:

First. A joint statement of Orison S. Marden of the American Bar Association, Revius O. Ortique of the National Bar Association, and Theodore Voorhees of the National Legal Aid and Defender Association before the Senate Committee on Labor and Public Welfare in support of the legal services program.

Second. An address by Justice Abe Fortas in which he expressed the need for a major program of legal services to the poor.

Third. A pamphlet, entitled "Lawyers and the Poor," distributed recently by the American Bar Association to its 125,000 members.

Fourth. A report of the OEO legal services program to the American Bar Association's annual meeting in August 1966. This excellent report discusses the status of the program and lists those projects funded through July 1, 1966.

Fifth. Recent editorials from the Washington Evening Star and the Washington Post strongly supporting the OEO legal service program.

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

THE LEGAL SERVICES PROGRAM OF THE OFFICE OF ECONOMIC OPPORTUNITY

(Joint statement of Orison S. Marden, president-elect, American Bar Association; Revius O. Ortique, Jr., president, National Bar Association; Theodore Voorhees, president, National Legal Aid and Defender Association; John W. Cummiskey, chairman, American Bar Association's Standing Committee on Legal Aid and Indigent Defendants; in support of. Before the Subcommittee on Employment, Manpower, and Poverty, Committee on Labor and Public Welfare, U.S. Senate, June 24, 1966)

Mr. Chairman and Members of the Committee, We deeply appreciate the opportunity to appear before you on behalf of the national organized legal profession to express support for the Legal Services Program of the Office of Economic Opportunity.

I. SUPPORT OF THE PROGRAM BY THE LEGAL PROFESSION

None of our organizations, the American Bar Assoication, the National Bar Association or the National Legal Aid and Defender Association, can take the credit for initiating the Legal Services Program of the War on Poverty which began in the Fall of 1964. After careful examination by our governing bodies, officers and staffs, however, our organizations concluded very early that the program should be supported and encouraged.

On February 8, 1965, the House of Delegates of the American Bar Association adopted a resolution directing the officers and committees to:

"Cooperate with the Office of Economic Opportunity and other appropriate groups in the development and implementation of programs for expanding availability of legal services to indigents and persons of low income." The full resolution is appended as Exhibit No. 1.

In response to the American Bar Associations' action, Mr. R. Sargent Shriver termed the resolution "historic" and offered the legal profession the OEO's cooperation in developing expanded and improved legal aid programs throughout the country.

We are pleased to report that there has been full cooperation between the OEO and the organized legal profession in the development of the Legal Services Program.

Leaders of the organized bar on the national level look upon the Legal Services Program as an excellent opportunity to greatly extend legal services to all who need them. This has been the goal of the Legal Aid Movement since its founding, nearly one hundred years ago. Nevertheless, prior to the inauguration of a federally supported program, our profession was not even beginning to do the job which it was required to do. The goal of providing legal services to all who need them had been unfulfilled as a result of the lack of financial resources and often lack of will in local communities.

We offer as Exhibit No. 2 a history of the Legal Aid Movement. We also offer for your information an extraordinarily perceptive article by Mr. Howard C. Westwood, a practicing lawyer in the District of Columbia and counsel to the National Legal Aid and Defender Association. Mr. Westwood emphasizes how important federal financing is in bringing legal aid to all of our underprivileged citizens. See Exhibit No. 3.

Lawyers have been serving clients without compensation since the profession's beginning. Nevertheless, it is unrealistic to assume that with the complexities and endless expansion of today's society, the profession can meet the need without public participation.

The use of government funds in assisting legal aid societies is not a new concept. In many communities, local and state government assistance is established practice. And, of course, the Federal Government entered the field of federal assistance for legal services when Congress overwhelmingly passed the Criminal Justice Act of 1964. This Act which had the full support of the organized legal profession, provided badly needed financial assistance for the defense of indigents accused of crime in the federal courts.

It is natural, therefore, that the legal profession is actively encouraging a federally supported legal services program such as that administered throughout the country by the Office of Economic Opportunity.

The American Bar Association, the National Bar Association, and the National Legal Aid and Defender Association have worked actively during the past several

months to assist in the development of OEO-funded legal services programs. We consider this action as best evidence of our respective organizations' support of the program.

Key officers of the three associations are members of the National Advisory Committee to the Legal Services Program. The Committee meets regularly to assist the able Director of the program, Mr. E. Clinton Bamberger, Jr., and his highly capable staff, in determining policy.

Our associations cooperated with the Department of Justice and the OEO in conducting the National Conference on Law and Poverty in June of last year. We believe that you would be especially interested in the conference's closing address by Mr. Lewis F. Powell, Jr., President of the American Bar Association, and offer a copy of Mr. Powell's remarks as Exhibit No. 4.

We are continuing the educational process through regional conferences co-sponsored periodically in various parts of the country by the American Bar Association, the National Legal Aid and Defender Association, state and local bar associations, legal aid societies, and the Office of Economic Opportunity. The emphasis at these conferences is on practical "how-to-do-it" procedures. More than one hundred persons attended the first conference held in Chicago on March 19, drawing an attendance from five Midwestern states, Illinois, Indiana, Michigan, Ohio, and Wisconsin.

The second regional conference was conducted on March 24 and 25 in Austin, Texas. Jointly sponsoring this meeting were the State Bar of Texas, the American Bar Association, the University of Texas School of Law, and the Office of Economic Opportunity. More than two hundred persons from five states, Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, attended.

On May 7, a similar conference was held in Portland, Oregon under the sponsorship of the Oregon State Bar, the Multnomah County Bar Association, the American Bar Association, the Office of Economic Opportunity, and the National Legal Aid and Defender Association. A Southeastern conference is scheduled to be held next month in Atlanta, Georgia.

So that you will know of the wide range of subjects considered at these conferences, and the high calibre of the speakers, we are submitting the programs of each as Exhibit No. 5.

We have cited these specific examples of action by our organizations as evidence of the profession's strong desire to assure the success of the Legal Services Program of the Office of Economic Opportunity. High quality and effective legal services are absolutely vital to the success of the overall Economic Opportunity program.

The various publications of our respective organizations have given continued news coverage to the Legal Services Program. In these publications, state and local bar associations, legal aid societies and individual lawyers have been urged to participate in the development of federally financed programs and have been kept thoroughly up-to-date on the progress throughout the nation.

The American Bar Association and the National Legal Aid and Defender Association have provided technical assistance to those communities wishing it and the officers of all three of our organizations have been addressing lawyers throughout the country, urging that they utilize the assistance offered by the Office of Economic Opportunity.

### II. THE ROLE OF LEGAL SERVICES IN ELIMINATING POVERTY

The question may be asked: How will legal services help people to lift themselves out of poverty? What possible practical result will come of legal services for those who cannot afford them?

Our answer is that it will be impossible to accomplish the goal of the War on Poverty—to completely eradicate poverty wherever it is found in this country—if the poor man does not have a lawyer to speak for him and guide him in solving his problems.

The question is asked whether legal services to the indigent are a proper method of alleviating poverty and whether the money might not be better spent in providing educational opportunities, medical care or just straight relief. If poverty were purely a question of the physical and material well being of the poor, the question would be a difficult one to answer. But the fact is that its base is also largely a matter of spirit. The eradication of poverty will necessitate the destruction of defeatism, the inculcation of self-dignity, and above all the development of a belief that the cards of life are not stacked against the poor.

If a man believes that he is oppressed, that he lacks opportunity, that the power of society is both against him and irresistible, and that there is no one who is interested in or capable of protecting him from the forces that are holding him down, he will stay forever in the slum in which fortune has deposited him. Such people seem to lack the motivation to pull themselves upward. What then can a legal service accomplish that can alter his situation?

The short answer is, of course, that providing him with a belief in the existence of justice will restore the self-reliance, the hope, the ambition that he may have lost in early childhood. Injustice, as Reginald Heber Smith has pointed out, makes men want to tear things down.

Consider the injustice that is faced by those who live in the slum and the ghetto. Rents are not infrequently exorbitant even when the landlord does little or nothing to comply with the rent laws and to make the tenement inhabitable. The poor may be blamed for the filth and the rats, but if the water does not run and there is no light or heat, the desire to escape the misery of his hovel is given little by way of encouragement from within himself. It is notorious that the food purchased by the poor is often shoddy and spoliated, and yet the consumer is gouged by high prices. The man who lands a job and tries to improve his lot may fall behind on his time purchase, a quick levy may be made on his goods and furniture, and he may be wiped out in a constable sale for a relatively small debt. It is true that constables, if unresisted, will pile charge upon charge.

The law—known in the ghetto as "the man"—seems to the poor man always to be on the other side. Savagery does exist in slum areas, and the action of the police in suppressing it may be characterized as heroic or brutal depending on which side of the tracks the observer may live. Under normal circumstances, encounters with the police involve adversary proceedings in which all the forces of society are lined up on one side, and no one—no lawyer, no magistrate, no defender of any kind—is to be found as a protector of the poor. This is true in matters of relatively small import—a drunkenness arrest involving a night in the lock-up, for example—and also on major occasions such as evictions, furniture levies, deprivation of relief, the institutionalizing for months or years of children charged with delinquency. The disasters that are visited upon the poor are compounded by their ignorance, lack of education, poverty and helplessness. Put a lawyer by their side and the whole outlook changes in almost every particular.

Lawyers serving the poor help them to develop self-confidence and a new respect for themselves when they realize that they need not be afraid to lawfully express themselves against governmental authority or welfare agents or unscrupulous landlords or lenders. Through appropriate legal help, an impoverished person may gain an entirely new lease on life, may develop respect for others, and may come to learn that the law is intended for his protection, not his degradation.

*Gideon v. Wainwright* and the consequent representation of all indigents in criminal proceedings, constitute a gigantic step demonstrating the need for, and value of, legal service for the poor. The OEO Legal Services Program is the counterpart in the civil field.

### III. THE VALUE OF A LAWYER'S SERVICE TO THE POOR

Consider the legal problems of the poor. In Philadelphia, to take a single example, nearly thirty thousand civil suits are instituted annually for amounts under $100. Ninety-eight percent of them result in judgments against the defendants. These judgments are executed upon by constables who can sell the defendant's entire household possessions in satisfaction of the lien. In the case of the poor, everything that a family may have may be lost to satisfy a relatively trivial debt. In most instances, however, with the help of a lawyer, the indigent client would obtain additional time, and would be able to work out some reasonable way to discharge his indebtedness.

Installment agreements not infrequently contain confession of judgment provisions. Before a debtor knows what is happening to him, if he has no access to a lawyer, he may find that he is sold out.

The poor tenant is an easy victim for the unscrupulous landlord. The tenant does not know his rights and cannot afford a lawyer. To cite again a single example, lease-purchase agreements to purchase housing often result in exorbitant interest rates, and the buyer may be induced to pay the taxes even though he may have no equity in the premises. It is quite obvious in such cases that he badly needs the advice of a lawyer.

Administrative boards and commissions often play an important role in connection with the rights of the poor. A welfare office may furnish assistance or deny help, sometimes on a highly arbitrary basis. Rulings of the employes of a board of education determine, on a daily basis, whether the children of the poor shall continue to receive education or whether their schooling shall terminate. The Social Security Administration and the Veterans Administration have complex regulations which by no means always favor those in the greatest need of their benefits. Fair Rent Commissions and Bureaus of Employment Security can be of great help. The problem lies in the fact that so many of the poor are not in contact with Legal Aid, they go to these boards and commissions without representation, and are incapable of presenting their cases on their own behalf. With a lawyer's help, however, they may be assured of a fair hearing.

In the criminal field, even today, representation is by no means universal. Many poor people with criminal records are barred from employment in civil service and other areas, perhaps for no other reason than disorderly conduct arrest. It is found cheaper to pay a ten-dollar fine than to hire a lawyer to establish innocence. The poor pay fees for bail on arrests when they could be discharged at the police court if representation by counsel were available.

The children of the indigent facing charges of delinquency in the juvenile courts are outside the protection of the constitutional safeguards since the proceedings are considered civil rather than criminal. The cases are frequently disposed of after hearings that last only two or three minutes, and counsel are seldom available to speak up for the child or family. The child goes through a period of grave crisis without visible protection, and his sense of injustice will make rehabilitation and ultimate respect for law very difficult to attain.

The OEO Legal Services Program for Philadelphia provides a defender service for all children charged with delinquency. This epitomizes the overall Legal Services Program which is pioneering to find new areas in which to protect the rights of the poor.

IV. THE MECHANICS OF THE PROGRAM

As of June 17, 1966, there were 121 legal services programs funded by the OEO. For the Committee's information, a brief description of each program funded as of June 1 is appended as Exhibit No. 6.

The 1965 resolution of the ARA House of Delegates admonished the OEO Legal Services Program to utilize the expertise and existing facilities of the legal profession wherever feasible. The schedule of funded programs, attached as Exhibit No. 7, illustrates the great extent to which the OEO has adhered to this request. A substantial number of grants have been made to legal aid societies, and local bar associations have participated or cooperated in nearly every program.

There are two major aspects of the Legal Services Program which are quite novel and deserve emphasis.

The first is the *neighborhood concept*. Limitations of funds and sometimes lack of motivation have prevented the traditional legal aid society from decentralizing its one office has normally been found in center city, out of reach of, and quite unknown to, the inhabitants of the "pockets of poverty." The spirit of those people is such as to make it unlikely that they will emerge from their neighborhoods and find their way downtown.

The creation of branch offices of legal aid, conveniently located in the very midst of the areas where the need for free legal services is greatest, has had an enormous effect on the broadening of the ultization of such services. The facts about the Neighborhood Legal Services Project in Washington, as set forth in Mr. Westwood's article, Exhibit No. 3, show dramatically how successful this type of program can be. The situation in the District of Columbia is by no means unique. Most metropolitan areas in this country contain comparable districts of concentrated poverty with equal need for neighborhood services. The existence of poverty and the need for legal help are, of course, not confined to our cities; a great many rural areas are equally blighted.

The second novel element in this program is the mandate for the *maximum feasible participation of the poor*. It may still be too early to appraise the value of that participation, but legal aid societies and bar associations have accepted the inclusion of representatives of the poor on the government boards of the funded programs, and there is little doubt that those representatives should have an important part to play in helping to make known the availability of the service and the value of its potentialities.

After all is said, the single most important factor at this time is the allocation of enough money to assure the program's effective development and success.

The restriction suggested by the House Committee that no salary shall include more than $12,500 of federal funds is wholly unrealistic. We grant that the purpose of the Poverty Program is not subserved by the payment of padded salaries to lawyers. Nonetheless, in the large programs in the major cities a great many lawyers will be employed and there will be compelling need for experienced direction. That need cannot be fulfilled if a $12,500 ceiling is placed on salaries. If a man is hired to give direction to such programs as New York or Los Angeles where his staff may exceed one hundred lawyers, a limitation of that kind would condemn the programs to leadership of inexperienced and weak calibre. This, in our opinion, would prove to be very poor economy.

A summary data chart, offered as Exhibit No. 8, will illustrate, among other things, that salaries of many lawyers in this program range higher than $12,500. If competent professional persons are to be employed, it is vital that this restriction not be imposed.

The appended summary of programs funded, Exhibit No. 6, illustrates the excellent beginning which has been made. It is quite apparent that acceptance of the report of the House Committee would mean that with only $22 million appropriated for this service, the year 1967 will see little more than a renewal of the grants for the programs that have been funded in 1966. There is in existence at the present time the greatest awareness of the importance of the service of lawyers for the poor that has ever been witnessed in this country. Bar associations and Legal Aid communities in nearly every state are examining local needs and preparing applications for OEO funds. The program has an enormous impetus, and it will be lost if OEO is obliged to turn down all new applications. Acceptance of the House limitations would impel such rejections. It does not seem too much to say that hanging in the balance is the greatest broadening of "equal justice" that has ever been contemplated in this land. The impact of that development upon entrenched poverty should be a heavy one. It would, we submit, be a tragedy if the great vision that is now before our eyes would be clouded over by a shortage of funds, particularly when the amount that is needed is relatively small.

The National Advisory Committee to the Legal Services Program has requested that $50 million be allocated to this program next year. We urge that Congress accept this figure which we believe would enable the government to fund sufficient programs to make a real impact. We realize that the amount of funds to be appropriated poses many difficulties and merely urge that careful consideration be given to a broad grant for this project of OEO.

The usefulness of the Legal Services Programs in the War on Poverty has created a very large demand from communities for these programs. By June 30, 1966, a total of 150 programs will have been funded at a total cost of $25 million.

Because of the fact that many of these programs were funded for less than a year and others were initiated as pilot projects with expansion expected in the second year, it is estimated that $35 million will be needed in fiscal year 1967 merely to refund the grants made in fiscal year 1966.

In addition, on July 1, 1966, the beginning of fiscal year 1967, an additional 100 legal services applications will be pending in the Office of Economic Opportunity which could not be funded out of the $25 million allocated to legal services in fiscal year 1966. If the poor in these 100 communities are to have legal services available to them, $17 million to $20 million in additional funds must be provided for the OEO Legal Services Program in fiscal year 1967. This means a minimum of $52 million to $55 million will be required in fiscal year 1967 in order to meet the current demands of the Legal Services Program. Additional funds would be necessary if services are to be provided in communities who may plan to apply after July 1, 1966.

V. CONCLUSION

Protection of the legal rights of the poor deserves a very high priority. On the one hand, this country is dedicated to the idea that our government is devoted to the ideal of justice. We claim that we stand for "equal justice" and that before the law everybody—rich and poor alike—are treated exactly the same. But we know that there is much difference between the ideal and reality. Today the very poor, largely because of their inability to obtain a lawyer to speak up for them, are deprived of the justice which others obtain almost as a matter of course.

A second and very immediate reason for high priority is the urgency for the development of greater respect for law. No less serious for all concerned than the loss of rights of the poor is the complete deterioration of law observance that has been so spectacularly exemplified in Watts and the other ghetto riots. The danger that the frustration and bitterness engendered by the conditions of the slums may touch off more of these conflagrations makes the need for remedial action immediate and imperative. For the many reasons set forth above, the providing of adequate available legal services should prove a tremendous mitigating force. The amount of money spent in this country combatting crime is said to exceed $20 billion a year. The $50 million that are being urged for the Legal Services Program is small in comparison. That money would not in itself eradicate riot and crime. It would, however, provide a strong weapon to kill the germs in the greatest breeding ground of the criminal world, the slum.

We urge that the Committee give careful and sympathetic consideration to the great possibilities of this program.

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ADDRESS BY JUSTICE ABE FORTAS, BEFORE SECOND CIRCUIT JUDICIAL CONFERENCE, LAKE PLACID, N.Y., JULY 2, 1966

It's a great pleasure for me to be with you tonight. It was generous of you to ask me; and kind of my brother Harlan to give me a visa to permit me to enter his territory.

As I considered the choice of subject for tonight I could not help regretting the passage of time. If my status were the same as a year ago—that is, before I was benched, I would undoubtedly have chosen to speak to you on recent decisions of the Supreme Court in the field of antitrust. I have no doubt that I would have expressed my strong and forceful approval of certain minority opinions that were written this term—but, after all, my wife sometimes reminds me that there is little doubt as to the identity of my favorite author.

As it is, I must be circumspect. And as I thought of addressing the members of the most affluent bar in the world and those who sit in judgment on them, it was natural that I decided to speak on the subject of poverty. After all, judges have a kinship with poverty. It's been suggested that they are the most overprivileged and underpaid members of our society.

It's characteristic of our nation that on great social issues we are inclined to defer action, to the point of crisis; but when we are, we do so with tremendous energy. Maybe that's good. Munoz Marin, the extraordinary former Governor of Puerto Rico, once said that democracy is the art of doing things at the last minute. There is a generally felt need for great actions; and the feeling seldom inspires action until the need is imperative.

So it has been with the problems of our Negroes and the poor. Some people are startled to be reminded that 100 years ago this nation solemnly resolved that no person shall be deprived of his voting rights on account of race or color or previous condition of servitude. That was the Fifteenth Amendment. And about a hundred years ago, the Fourteenth Amendment was adopted, and it said that no state shall deprive any person of equal protection of the laws.

But these were wartime measures. They were the product of victory, not of consensus. And like the fruits of most wars, they were not harvested. For about a hundred years, the great decisions incorporated in the Fourteenth Amendment provided limited sustenance to their intended beneficiaries; and the radical Fifteenth Amendment lay

dormant, with only an occasional and feeble sprouting. There was, in effect, a quiet national decision substantially to nullify the edicts of the victors of the Civil War.

I think that this was largely because the intended beneficiaries—the Negroes—were nobody's constituency. They were unorganized and leaderless. And in a democracy, as Harold Laski has reminded us, it is not demand that produces action, but effective demand.

Now, organized and instigated by competitive leaders—galvanized by the examples of the new nations in Africa—the Negroes of this nation have pressed their rightful demands upon the sensitive conscience of America. The response they have received is tremendous—a characteristic outpouring of energy, good will and inventiveness, designed to reconstruct in a few years the shambles of a century of neglect and negation. And I think that it is to this initiative of the Negroes that we must trace the inclusion of all of the poor in this gigantic undertaking—that without the catalyst provided by the Negroes, the poor of this affluent nation would have remained outside of its circle of primary concern.

We are now launched upon a vast social revolution—a social revolution that, I think, is without parallel in the peaceful achievements of men and their governments. We are not near the goal. We are at the beginning, not the end. But in characteristic American fashion, it is an explosive beginning. It is a giant thrust forward and upward.

Thus far, it has taken the form of a new statement of national principles. It is a new Bill of Rights—new, not because the principles were not written. They were—100 years ago. It is not new because it creates new rights. It does not. The rights were solemnly assured 100 years ago. It is a new Bill of Rights in the sense that the nation has decided—and, I think, decided beyond possibility of reversal or negation—that the rights guaranteed by our constitution and insisted upon by our religious and moral principles shall be available to all—and that they shall be available in the full sense—that is, clothed with opportunity—for naked rights, without the opportunity to put them to work for achievement and self-realization, may be comforting to the *giver*, but they are useless to the recipient.

And so we have begun the vast formidable process of opening the doors of our society to 35,000,000 new people—the Negroes and the poor whites. There is no turning back, for we have recognized their rights—we have begun to grant their demands—and even in this land of miracles, there is no way to return the chicken to the egg—even if we should want to do so.—So far as I am concerned, I welcome this great development. It is *right*. Its benefits will be enormous. The nation will reap a rich harvest from the introduction and full participation of these 35,000,000 people. They will bring new vitality, new diversity, new wealth and new talents to us—as producers, consumers and contributors to our culture. As the President has said, we have opened a new frontier—a frontier not of land, but of people. And I think that the benefits to the nation may properly be compared to those which result from the opening of a vast new territory—comprising more than one-sixth of our population.

In this enormous process there has occurred a change in basic concept which is of profound significance. The poor we have had with us always, and our society has not been blind to their need or deaf to their call for help. But our traditional response has been in terms of charity—at first, private charity and, in more recent times, public assistance.—The basic concept has been charity—a benefaction bestowed as a matter of grace—granted at will, withheld or withdrawn at will. We have proceeded on the theory that neither private citizens nor the state has an obligation to provide assistance; and, correspondingly, no one has a right to demand it.—So it is that the Louisiana Legislature felt free to strike 23,000 needy children (largely Negro) from the assistance rolls, because they were born without benefit of clergy.—It is, I think, no exaggeration to say that the recipients of public assistance have lived at sufferance. They have been strangers to the law, except as an adversary—the arresting policeman, the criminal process, the juvenile courts, the unpaid landlord, the unsatisfied merchant.—As recipients of public welfare benefits, they have confronted society in its most formidable, and sometimes outrageous, aspects: The prying eye of the welfare worker acting under compulsion of laws and rules and regulations sometimes designed to see that those who receive welfare qualify for it by leading lives which, if not blameless, are at least celibate: witness, for example, the administration of the law which denies welfare payments to a woman and her children if the welfare worker finds a man in the house—a law which in the District of Columbia was enforced by infamous midnight raids.—Witness, too, the almost routine actions of some juvenile courts—despite the admonitions in many juvenile court statutes—in depriving mothers of their children.

A non-lawyer, Elizabeth Wickenden, an expert in social welfare theory and practice, has forcefully brought to public attention the absence of law in this area. The millions of people in this nation who are dependent on social welfare payments are, in truth, largely outside of our system of legal protections. They live in a hostile world, in which the law is not a protective system, but another instrument of aggression in a society which, to them, is fearful, dangerous and vindictive. As Michael Harrington has put it: "To be impoverished is to be an internal alien, to grow up in a culture that is radically different from the one that dominates the society." [1]

As we move up the scale from the impoverished who are almost totally dependent upon public welfare to the remainder of the 35,000,000 in the poverty class, we find that the situation is not much better. To them, too, the law has been an antagonist—fearsome and destructive. On the civil side, they have been helpless and friendless. The law has been the instrument which has evicted them for non-payment of rent; which has seized and sold their possessions at the behest of landlord, grocer, installment seller. It has been available to the enemy—not to them. Lawyers have been tools of the enemy—out of the reach of the poor. On the criminal side, the same has been true. Potent police, omnipotent juvenile court judges have had the power to seize and dispose of their children in a process which we lawyers call civil and not criminal—with more justification in history than in fact. Alien police—officials of the establishment—have had the means and the authority to take them into custody and commit them to a dark and mysterious process in which they have been without guidance or assistance—with some qualifications to which I shall refer. Without bail, without guidance, without friends—cut off from their families and means of livelihood—the joys of the rule of law have not been impressive to them.

Perhaps what I have said may seem overdrawn to you—or at least excessively dramatic. The colors of the jungle are overblown in the eyes of people who live in temperate lands. But the important point is that the condition which I have described is no longer merely a summons to comparison. It presents the problem which we must solve if we are to live in peace—if we are to be able to walk our streets in safety and security—if we are to reduce crime to manageable levels—if we are ourselves to be free from the danger of infection of lawlessness, ignorance and drug addiction. The condition that I have described must be resolved if we are to have the rule of law—if we are to be able to bring 35,000,000 people to the point of involvement and identification with our society, instead of hostility and antagonism—and if we are to convert these people into productive members of our community instead of persons who represent a perpetual burden and menace.

As I have indicated, I believe that an indispensable key to this process is to be found in the law—in the availability of law to the poor, not as an adversary, an enemy, but as a process of which they are beneficiaries—in the benefits of which they fully share. In net effect, this means that legal services must be available to them. It would be idle to underestimate the need or the resources required to meet even the basic need—for I think it is true that the 35,000,000 of whom we speak are those who are most frequently involved with the law. It is they who are most often involved in the criminal law; and it is they who most frequently are the subjects of the forcible collection procedures, eviction processes, juvenile and family court proceedings, and denials of welfare and other government payments. It is they who live on the fringes of our legal system—and it is here that the fingers of the law most often touch the daily lives of people.

I need not emphasize to you that our traditional system of voluntary legal aid and legal aid societies is totally inadequate for this purpose. We are entitled to be proud of their record—proud that lawyers have accepted court assignments without fee and sometimes at considerable cost; proud that lawyers have generously contributed time and money to legal aid societies to provide services to indigents; and proud that these societies have enlisted substantial support from the bar associations and the communities they serve. But our pride in the past does not diminish our realization that these voluntary services are totally inadequate—inadequate in theory and abysmally inadequate in scope and resources. Carlin and Howard, for example, in a study published last year, estimated that only about 10% of those persons needing legal aid are actually serviced.[2] I believe this is conservative, but I shall not elaborate the point. Perhaps more important is the observation that we have moved into a different concept of legal services for those who cannot afford to pay for them. No longer can we look upon them as a charity, largely private. We have begun to regard them as a state obligation—within a perimeter which is beginning to take definition, as a service which the government is obliged to furnish and to which the individual who, by hypothesis, could not otherwise obtain legal service, is entitled. This concept, startling in its boldness, does not, of course, emerge only with respect to legal services. It reflects, and is part of, a new concept of public welfare: That it embraces duties of the state, and not just benefactions; and that it vests rights in those eligible, not merely privileges. Professor Charles Reich, in a perceptive article, has called it "The New Property." [3]

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[1] Harrington, *The Other America* (1962) 16–17.

[2] Carlin and Howard, *Legal Representation and Class Justice*, 12 U. C. L. A. L. Rev. 381 (1965).

[3] Reich, *The New Property*, 73 Yale L. J. 733 (1964). See also Reich, *Individual Rights and Social Welfare: The Emerging Legal Issues*, 74 Yale L. J. 1245 (1965).

Faced with this need—with this explosive concept—the bar has responded magnificently. On February 8, 1965, the House of Delegates of the American Bar Association adopted a resolution directing its officers and committees to cooperate with the Federal Office of Economic Opportunity (The Poverty Program) and other appropriate groups in expanding legal services to indigents and persons of low income. The ABA has cosponsored a series of regional conferences on problems and methods of providing these legal services. Compared with total annual expenditures by legal aid societies in the area of $5,000,000, the OEO in fiscal 1966 provided $25,000,000 for the purpose—funding 121 legal services programs. The National Advisory Committee to the Legal Service Program has requested that $50,000,000 be allocated to the program next year.

In a remarkable statement submitted in support of this appropriation request, Orison S. Marden, President-elect of the American Bar Association has attested the Bar's strong endorsement of the program. He eloquently described the reaction of the poor towards the law. "The law," he said, "known in the ghetto as 'The Man'—seems to the poor man always to be on the other side . . . put a lawyer by their side," he said, "and the whole outlook changes in almost every particular."

Law schools have also accepted the challenge. Now courses have been instituted. Practice projects have been undertaken. The aid of foundations has been generated. In particular, the Ford Foundation is making a remarkable contribution both of financing and ideas. More and more, young lawyers emerging from law schools are seeking an opportunity to participate in the Legal Frontier of our time.

All of us know that the problems of implementing this huge program are enormous. The values to be considered are great and complex. The precedents and examples are of limited value. In England, since enactment of the Legal Aid and Advice Act of 1949, a comprehensive plan for providing legal services in civil as well as criminal matters has been in operation. Its basic principles are that need and eligibility are determined by committees of the Law Society, composed entirely of lawyers. The client is then entitled to select his own solicitor who then proceeds completely as if the client came to him in the course of his private practice. The lawyer is paid fees by the state on the same basis that fees are charged in private practice, and his expenses for investigations, experts, etc., are similarly totally reimbursed. While the system is admirable in many respects, it is doubtful that it can be applied in this country to our vast and somewhat unruly circumstances.

We are proceeding—wisely, I think—with a wide variety of devices in many communities—primarily designed by local lawyers and based on diverse ideas. I am glad to note that in many of the plans, law students and fledgling lawyers are liberally utilized. This is good for them, for the future of the Bar, and for the client. For this is a process which demands the enthusiasm and dedication of youth—and experience is no substitute for those qualities.

We are, then, at the threshold of a great development in the Law. We are on the verge of a historic transformation of the public evaluation of the lawyer, and of the lawyer's role in society. Perhaps some of us will witness the final burial of the notion that lawyers are an evil, tolerated because necessary, but not to be encouraged. In criminal law, from the *Scottsboro* case (*Powell* v. *Alabama*) to *Gideon*, we have recognized that the trial of a man for a major offense is a mockery of justice, unless he is represented by counsel. In *Escobedo* and *Miranda*, we have explored the midnight darkness of the events that occur after a man is deprived of his liberty, when generally friendless and usually hopeless he must bear the enormous weight of accusation and interrogation. We are now ready to begin the process of using the law and lawyers, not merely as instruments of defense against criminal accusation, but as positive tools in the everyday life of the one-sixth of our population who live on society's fringes.

It is an enormous challenge. But it is also an opportunity—an opportunity to demonstrate that the law, made available to those who need it, is a powerful tonic—that, as Orison Marden has said, providing a man "with a belief in the existence of justice will restore the self-reliance, the hope, the ambition that he may have lost in early childhood." It is an opportunity to show that the law and lawyers are not merely instruments of negation—of negative control—but that faith in them can provide a means for achieving dignity and trust in justice—without which no society can count itself as either safe or secure.

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LAWYERS AND THE POOR

(A report on the legal services program of the Office of Economic Opportunity prepared for the information of individual practitioners and the organized bar by the American Bar Association)

"Nothing rankles more in the human heart than a brooding sense of injustice. Illness we can put up with; but injustice makes us want to pull things down."

REGINALD HERBER SMITH.

"The legal services program of the Office of Economic Opportunity offers the legal profession its most exciting challenge and greatest opportunity to realize its ancient and honored goal: equal justice for the poor."

EDWARD W. KUHN,
*President, American Bar Association.*

ABA RESOLUTION ON THE OEO LEGAL SERVICES PROGRAM ADOPTED BY THE HOUSE OF DELEGATES, FEBRUARY 8, 1965

Whereas, the organized bar has long acknowledged its responsibility to make legal services available to all who need them, and this Association has been a leader in discharging this responsibility; and

Whereas, the organized bar, under the leadership of the National Legal Aid and Defender Association and of this Association has extended legal services to indigents for more than three quarters of a century, and there are now some 247 legal aid offices and 136 volunteer legal aid committees rendering these services; and

Whereas, the organized bar, under the leadership of this Association, has also extended legal services to persons of modest or low incomes for many years through lawyer referral programs, and there are now some 203 lawyer referral agencies in operation; and

Whereas, individual lawyers traditionally have rendered service without charge to those who cannot pay; and

Whereas, despite the considerable effort of individual lawyers and the organized bar over many decades, it is recognized that the growing complexities of modern life, shifts of large portions of our population, and enlarged demands for legal services in many new fields of activity warrant increased concern for the unfilled need for legal services, particularly as to persons of low income, and that the organized bar has an urgent duty to extend and improve existing services and also to develop more effective means of assuring that legal services are in fact available at reasonable cost for all who need them; and

Whereas, the Economic Opportunity Act of 1964 provides for cooperative programs with state and local agencies through which various services, including legal services, may be rendered to persons of low incomes who need advice and assistance; and

Whereas, freedom and justice have flourished only where the practice of law is a profession and where legal services are performed by trained and independent lawyers;

Now, therefore, be it resolved, that the American Bar Association reaffirms its deep concern with the problem of providing legal services to all who need them and particularly to indigents and to persons of low income who, without guidance or assistance, have difficulty in obtaining access to competent legal services at reasonable cost; and authorizes the officers and appropriate Sections and Committees of the Association, including such additional special committee (if any) as the Board of Governors may establish, in cooperation with state and local bar associations and the National Legal Aid and Defender Association, to improve existing methods and to develop more effective methods for meeting the public need for adequate legal services; and

Further resolved, that the Association, through its officers and appropriate committees, shall cooperate with the Office of Economic Opportunity and other appropriate groups in the development and implementation of programs for expanding availability of legal services to indigents and persons of low income, such programs to utilize to the maximum extent deemed feasible the experience and facilities of the organized bar, such as legal aid, legal defender, and lawyer referral, and such legal services to be performed by lawyers in accordance with ethical standards of the legal profession; and

Further resolved, that the Association's Committees on Legal Aid and Indigent Defendants and on Lawyer Referral Service shall, in the absence of the creation of a special committee for the purpose have primary responsibility for (I) implementing these resolutions (II) coordinating with the appropriate Committees and section, and (III) reporting back to this House at the Annual Meeting in August, 1965.

THE FIRST YEAR OF FEDERAL AID TO LEGAL PROGRAMS FOR THE POOR

The Legal Services Program of the War on Poverty has completed its first full year of operation. At the end of the fiscal year on June 30 approximately $25 million in federal funds had been allocated for programs serving hundreds of thousands of underprivileged persons in both urban and rural communities.

The initial federal expenditure is nearly five times the $4.5 million expended in *all* of 1965 by *all* locally supported civil Legal Aid offices.

While the program did not get fully under way until after the appointment of E. Clinton Bamberger, Jr.[1] as legal services director in the fall of 1965, it already is clear that federal funding is having a profound impact on the quality and quantity of legal services available to the nation's poor.

This pamphlet will describe briefly the federal program and tell of the American Bar Association's contributions to its increasingly effective operation.

DEVELOPMENT OF LEGAL SERVICES BEFORE THE OEO

From colonial times American lawyers have contributed their time and resources to serving the poor in fulfillment of their professional and public service obligations. The need for such services, in order to preserve our way of life, was stated by Judge Learned Hand: "If we are to keep our democracy there must be one commandment: Thou shalt not ration justice."

With the growing volume and complexity of the legal problems of the poor, unorga-

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[1] Mr. Bamberger resigned as director of the legal services program on June 29, 1966.

nized services rendered by individual lawyers in their offices increasingly gave way to lawyer specialists in Legal Aid Societies and other bar sponsored organizations, particularly in urban areas. Such efforts received the support of the American Bar Association and many state and local bar associations for more than 30 years prior to the adoption of the Economic Opportunity Act.

Although contributions by lawyers and Bar Associations continued to play an important role, the burden of financing such activities became so heavy that local governments and community funds gradually assumed the major share in financing both civil Legal Aid and organized Criminal Defender Services. Even such funding, however, proved inadequate to cope with the rapidly increasing needs of the poor. This, together with the federal government's increasing financial support of local social service programs for the poor, resulted in the present OEO Legal Services Program.

The ABA position in endorsing the federal program was stated by Past President Lewis F. Powell, Jr.:

"It is true that most lawyers would have preferred local rather than federal solutions. But the complexities and demands of modern society, with burdens beyond the will or capacity of states and localities to meet, have resulted in federal assistance in almost every area of social and economic life. There is no reason to think that legal services might be excluded from this fundamental trend of the mid-twentieth century. Lawyers must be realistic as well as compassionate."

ENDORSEMENT OF OEO PROGRAM BY THE AMERICAN BAR ASSOCIATION

The House of Delegates of the American Bar Association without dissent authorized cooperation in the Legal Services Program of the War on Poverty on February 8, 1965. The House is composed largely of representatives of all state and the major city bar associations. The House action was taken on the recommendation of the Board of Governors following extensive study of the OEO program by ABA officers and the Standing Committees on Legal Aid and Indigent Defendants and Lawyer Referral Service.

Edward W. Kuhn, president of the ABA, has termed the OEO Legal Service Program "the greatest challenge in the history of the legal profession."

President-elect Orison S. Marden said: "The Legal Services Program gives to our profession a golden opportunity to move forward more rapidly than we had ever thought possible in serving the legal needs of the poor."

Lewis F. Powell, Jr., past-president of the ABA has said: "We now enter a new phase in which significant financial assistance will come from the Federal Government. The cooperation and support of the Bar must surely continue. Indeed, we must welcome the increased resources that may make possible a great thrust forward in an area of manifest need."

ECONOMIC OPPORTUNITY ACT—ITS PURPOSES AND OBJECTIVES

Legal Services Programs normally are funded as a part of Community Action Programs under Title II–A of the Economic Opportunity Act of 1964. Title II of the Act authorizes the Director of OEO to "make grants to or contract with public or private non-profit agencies . . . to pay part or all of the costs of Community Action Programs focused upon the needs of low income individuals and families . . . "

The programs should "provide stimulation and incentive" to local communities "to mobilize their resources to combat poverty." Legal services are not specifically described in the Act. However, Senate Report No. 599, 89th Congress, First Session, makes it clear that legal services are included.

According to R. Sargent Shriver, Director of the OEO:

"The purpose of the Poverty Program is to root out . . . causes of resentment, hostility, despair and cynicism. The function of the Legal Services Program is to marshal for poor people the aids and advocacy which attorneys traditionally render for clients . . . be they rich or poor."

The five specific objectives of the program as set forth in the revised Guidelines are:

1—fund locally initiated and locally controlled programs of legal service for people in poverty.

2—accumulate knowledge on the most effective method for bringing the assistance of law and lawyers to the poor.

3—sponsor education and research in the areas of procedural and substantive law which affect the causes of poverty.

4—acquaint lawyers with their essential role in combating poverty.

5—finance programs to teach the poor and those who work with the poor to recognize problems that can best be resolved by the law and lawyers.

OEO HAS NO STANDARD PROGRAM; FUNDS WIDE RANGE OF NEW PROJECTS

"There is no such thing as a 'standard' legal services program," say the OEO Guidelines. "Innovation is encouraged and is limited only by the ingenuity of the developers of a proposal."

The Guidelines call for civil legal services in all fields but ban those that would only duplicate existing services for the indigent. More restricted services are authorized in criminal cases. The OEO will not fund projects in criminal defense that do no more than meet the requirements for counsel under the U.S. Constitution, or duplicate present programs for aiding indigent defendants. However, the Guidelines permit funding of projects that provide counsel where this service goes beyond constitutional requirements and is not presently provided the indigent—for example, in juvenile and misdemeanor cases, pre-arraignment and post-conviction proceedings.

TYPES OF PROGRAMS

In most instances the local CAP agency contracts with a Legal Aid Society, bar association, law school or combination of these to conduct the Legal Services Program.

Funded programs cover a wide range of activities including neighborhood law offices in larger cities, "circuit riding" lawyers in rural areas, a variety of preventive law programs that include educational projects to teach the poor of legal pitfalls, their legal rights and obligations, and research in areas of the law affecting the poor. An "English" style program, providing direct payments to private lawyers serving the poor, also has been funded in rural counties of Northern Wisconsin. However, E. Clinton Bamberger, Jr., first director of the OEO Legal Services Program, indicated that such programs were funded only on an experimental basis to test their effectiveness, particularly in sparsely populated areas.

Normally, a legal services program will be instituted in cooperation with a community action agency created for local administration of the full range of CAP programs. However, legal services programs can be initiated by direct application to the OEO if there is no local CAP agency or if it is not feasible to operate within an existing agency.

Educational programs for lawyers, social workers, investigators and other professional and non-professional workers in poverty programs are authorized by the Guidelines. Programs utilizing the skills of law students also may be funded.

The act requires that all CAP programs be conducted "with the maximum feasible participation" of the groups served and the legal services Guidelines conform to this requirement.

HOW THE ABA AND OEO HAVE ACTED TO PROTECT PROFESSIONAL STANDARDS

In voting support of the federal Legal Services project the House of Delegates stressed that it should: "Utilize to the maximum extent deemed feasible the experience and facilities of the organized bar, such as Legal Aid, Legal Defender and Lawyer Referral" and be "performed by lawyers in accordance with ethical standards of the legal profession."

Both of these conditions have been incorporated in the OEO's revised Guidelines and have repeatedly been emphasized by officials of the OEO and the ABA.

Thus, Director Bamberger has said: "A Legal Services Program must in every respect be conducted in complete and absolute accord with the letter and spirit of the canons of professional ethics."

Mr. Bamberger said the record to date shows that fears of ethical violations have been exaggerated, adding: "It is no longer necessary to speculate about what will or will not happen. Lawyers are in active practice in OEO-financed programs all over the country. There has not been to my knowledge a single complaint, anywhere, of any breach of the Canons of Ethics, by any one of them."

President-elect Marden has stated with respect to the program: "Actual operations will be controlled at the community level where lawyers will be in the driver's seat. Our independence and traditions are not in fact threatened."

In practice nearly every program funded has been sponsored or approved in some manner by a state or local bar association or established Legal Aid Agency.

REQUIRE INDEPENDENCE OF LAWYERS

The OEO Guidelines also require that OEO legal services agencies have complete "independence of professional legal judgments from policies of the local community action agency." This is best assured, the Guidelines add, "by the creation of a separate policy-making board."

ELIGIBILITY STANDARDS AND REFERRALS UNDER LOCAL CONTROL

Income limits for those eligible to receive free legal services are left to local determination under the Guidelines. The standard should not be so high that it includes clients who can pay the fee of an attorney without jeopardizing their ability to have decent food, clothing and shelter, the Guidelines state; but they caution that "no standard should be inflexible" and call for special review of "unusual hardship" cases.

BAN FEE GENERATING CASES

The Guidelines specifically prohibit free legal advice "in fee-generating cases such as contingent fee cases or other cases in which a fee provided by statute or administrative rule is sufficient to retain an attorney."

A BONUS FOR THE BAR—INCREASED PRIVATE PRACTICE

Many bar associations are crediting the OEO Program with increasing private law practice. For example, the Bar Association of Erie County, Buffalo, New York, reports that its Lawyer Reference Service has increased "by several hundred annually" since commencement of the program, and its President has stated: "We feel that this OEO program has played an important part in the increased activity of our Lawyer Reference Service."

Director Bamberger, in explaining that OEO programs will not take clients away from private lawyers, has said: "Private practice will grow enormously by bringing the poor into our world of the law and lawyers."

He said two false assumptions underlie the fear that OEO programs will take away

clients. The first holds that there is a fixed amount of legal work in a given community. The second holds that this fixed amount of work is being handled by private attorneys.

In reality, Mr. Bamberger said, very few of the legal problems of the poor are ever brought to the attention of an attorney and there is a vast unserved need for legal aid and education.

HOW THE ABA HAS WORKED IN COOPERATION WITH THE OEO

Since the House of Delegates authorized cooperation in the Legal Services Program the Association has worked closely with the Office of Economic Opportunity. This liaison has given the Association a voice in many key decisions affecting the direction and content of the Program. Of the 23 members comprising the OEO's National Advisory Committee 22 are lawyers and five from among the lawyer group are leading officials and representatives of the ABA. This Committee participated in drafting the revised Guidelines which set the basic policy for all OEO funded programs. ABA leaders assisted in the search for a qualified Director for the Legal Services Program and endorsed the appointment of Mr. Bamberger. Mr. Bamberger, formerly a lawyer in private practice, took a leave of absence from his partnership in Baltimore. The Association and its leaders, together with its affiliate, the National Legal Aid and Defender Association, and state and local bar associations have joined together in sponsoring national, regional, and state meetings to explain the program to lawyers and assist in starting local programs. ABA representatives also have joined in presenting to Congress requests for additional funds to strengthen the Legal Services Program.

PARTICIPATION BY LOCAL BAR ASSOCIATIONS AND LAWYERS

Leaders of the bar repeatedly have stated that primary responsibility for initiating and carrying out the OEO Legal Services Program rests on the shoulders of local bar associations and lawyers. President-elect Marden has said: "The ultimate success of the program will depend largely on the character and strength of participation by the bar at the local level. Bar associations should be working closely with community leaders in the preparation of appropriate programs tailored to community needs."

ADDITIONAL INFORMATION

Additional materials on the OEO Legal Services Program may be obtained on request to the American Bar Association, Division of State and Local Bar Services, 1155 East 60th Street, Chicago, Illinois 60637. These include:

1. *The President's Address* by Lewis F. Powell, Jr., published in the September, 1965, ABA Journal, Vol. 51, No. 9.

2. Address of President-Elect Orison S. Marden at the Symposium on Poverty and Justice, Notre Dame Law School, April 16, 1966.

3. Address of E. Clinton Bamberger, Jr., Director of the OEO Legal Services Program, at the Southwest Regional Conference on Law and Poverty, Austin, Texas, March 24, 1966.

4. OEO Guidelines for Legal Services Programs.

5. OEO Pamphlet on How to Apply for a Legal Services Program.

The following items are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

1. *Proceedings of the National Conference of Law and Poverty*, co-sponsored by the U.S. Attorney General and the OEO, June 23–25, 1965, Washington, D.C. Seventy Cents.

2. *Proceedings of the Conference on Extension of Legal Services to the Poor*, sponsored by the Department of Health, Education, and Welfare, November 12–14, 1964, Washington, D.C. Sixty Cents.

*National and regional offices of the OEO*

National Office: Office of Economic Opportunity, Director of the Legal Services Program, 1200 Nineteenth Street, NW., Washington, D.C. 20506.

Regional Offices

Northeast region: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont: 40 East 41st Street, New York, New York 10017, Tel.: (212) 573–6413.

Midatlantic region: Delaware, District of Columbia, Kentucky, Maryland, North Carolina, Pennsylvania, Virginia, West Virginia: 1730 K Street, NW., Washington, D.C. 20506, Tel.: (202) 382–6383.

Great Lakes region: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin: 623 South Wabash Avenue, Chicago, Illinois 60605, Tel.: (312) 828–5786.

North-central region: Colorado, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming: Pershing Building, 215 West Pershing Road, Kansas City, Missouri 64104, Tel.: (816) 374–3861.

Southeast region: Alabama, Florida, Georgia, Mississippi, South Carolina, Tennessee: 101 Marietta Street, Atlanta, Georgia 30303, Tel.: (404) 526–4558.

Southwest region: Arkansas, Louisiana, New Mexico, Oklahoma, Texas: Lowich Building, 314 West 11th Street, Austin, Texas 78701, Tel.: (512) 476–6411, Ext. 6381.

Western region: Alaska, Arizona, California, Hawaii, Nevada, Oregon, Washington: 100 McAllister Street, San Francisco, California 94102, Tel.: (415) 556–7716.

Special projects office: Indian Reservations, Migrant Projects, Puerto Rico, Virgin Islands, Guam, Trust Territories of the Pacific: Community Action Program, Office of Economic Opportunity, Washington, D.C. 20506, Tel.: (202) 382–5165.

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FIRST ANNUAL REPORT OF THE LEGAL SERVICES PROGRAM OF THE OFFICE OF ECONOMIC OPPORTUNITY TO THE AMERICAN BAR ASSOCIATION AT ANNUAL CONVENTION, MONTREAL, AUGUST 1966

"The Legal Services Program of the Office of Economic Opportunity offers the legal profession its most exciting challenge and greatest opportunity to realize its ancient and honored goal: Equal justice for the poor.

EDWARD W. KUHN,
*President, American Bar Association.*

"Lawyers are especially equipped to assure that the legal rights of economically deprived slum dwellers of our large urban areas are not violated, and most importantly, that respect for law and order is strengthened. This can be helpful to the Poverty Program and other Federal programs as we grapple with the underlying causes of unemployment, housing deprivation and educational denials."

LYNDON B. JOHNSON,
*President, United States of America.*

"The Legal Services Program gives to our profession a golden opportunity to move forward more rapidly than we had ever thought possible in serving the legal needs of the poor."

ORISON S. MARDEN,
*President-elect, American Bar Association.*

"For the first time in history, a truly resourceful, imaginative and novel approach has been developed to eradicate poverty and the indignity and inequality that are a part of it . . . the Program provides means for achieving goals long aimed at by the NLADA and the Bar—the extension of Organized Legal Aid on a scale that will make a reality of the ideal of Equal Justice under Law."

THEODORE VOORHEES,
*President, National Legal Aid and Defender Association.*

"A search for truth and justice which depends upon an adversary system gropes half-blind when there is no advocate for one side of the proposition."

E. CLINTON BAMBERGER, Jr.,
*Director, Legal Services Program, Office of Economic Opportunity.*

NATIONAL ADVISORY COMMITTEE TO THE LEGAL SERVICES PROGRAM OFFICE OF ECONOMIC OPPORTUNITY

Ex-Officio: E. Clinton Bamberger, Jr., Director, Legal Services Program.

Earl Johnson, Jr., Deputy Director, Legal Services Program.

Donald M. Baker, General Counsel, Office of Economic Opportunity.

Gary Bellow, Deputy Executive Director, United Planning Organization.

Jean Camper Cahn, Private Attorney, Washington, D.C.

Edward Q. Carr, Director, New York, Legal Aid Society.

John W. Cummiskey, Chairman, American Bar Association's Standing Committee on Legal Aid.

Professor Harold Horowitz, U.C.L.A. Law School.

Hon. Nicholas deB. Katzenbach, Attorney General of the United States.

Edward W. Kuhn, President, American Bar Association.

Orison S. Marden, President-elect, American Bar Association.

F. William McCalpin, Chairman, American Bar Association's Special Committee on the Availability of Legal Services.

Professor Soia Mentschikoff, University of Chicago, School of Law.

W. Robert Ming, Jr., Private Attorney, Chicago, Illinois.

Pauli Murray, New York City, New York.

Hon. Philip M. Newman, Judge of Municipal Court, Los Angeles Judicial District.

Revius O. Ortique, Jr., President, National Bar Association.

Lewis F. Powell, Jr., Past President, American Bar Association.

Jerome J. Shestack, Private Attorney, Philadelphia, Pennsylvania.

Theodore Voorhees, President, National Legal Aid and Defender Association.

Elizabeth Wickenden, National Social Welfare Assembly, Inc.

Alanson Willcox, General Counsel, U.S. Department of Health, Education, and Welfare.

Martin R. Wolf, Coordinator, Alameda County Bar Association.

INTRODUCTION

A year ago this month, Sargent Shriver, Director of the Office of Economic Opportunity, addressed the Annual Convention of the American Bar Association in Miami. He said:

"There is a growing awareness across the country that the poor have, in fact, been deprived of their rights under the law. With this awareness, there is a new appreciation of the contributions the law and lawyers can make to get poor people out of poverty."

In September, 1965, E. Clinton Bamberger, Jr., was appointed as first Director of the Legal Services Program. During the 11 months following the inception of the program:

A total of over 27 million dollars in grants were made.

Over 160 programs were funded.

43 of the 50 states have programs.

All 12 of the nation's largest cities and 37 of the 50 largest cities received OEO Legal Services grants. Of the remaining 13, 9 cities have applications pending.

Over 500 new law offices serving the poor were funded.

Over 1,000 full-time attorneys and countless volunteer attorneys enlisted in the War on Poverty.

This is the report of the first year of the Legal Services Program of the Office of Economic Opportunity. But, in an important sense, it is more than that. It is a report on the legal profession's continuing effort to achieve its principal goal: equal justice for all.

THE ORGANIZED BAR AND LEGAL SERVICES TO THE POOR

Equal justice for the poor has long been the ideal of the legal profession. In 1920, the American Bar Association translated its concern for the indigent into a formal national commitment by establishing a Committee on Legal Aid Work. In that year, Reginald Heber Smith, author of *Justice and the Poor*, addressed the annual meeting of the American Bar Association. He stated:

"Let us assume . . . leadership by declaring here and now that henceforth within the field of law, the mighty power of the organized American Bar stands pledged to champion the rights of the poor, the weak, and the defenseless."

Since that time, the ABA and its Standing Committee on Legal Aid Work and Indigent Defendants, first chaired by Charles Evans Hughes, have been in the forefront of efforts to establish programs offering legal assistance to the poor.

In 1940, the House of Delegates passed resolutions in support of legal services: It was resolved that:

a) state and local bar associations should cooperate with legal aid societies and see that they are formed;

b) the association encourage state and local bars to support *in forma pauperis* legislation;

c) the committee conduct special surveys and propose remedial legislation to protect the poor against special abuses such as loan sharks, installment sellers, and assignees of future wages;

d) law schools be encouraged to teach the principles and methods of legal aid;

e) the support of the Junior Bar should be enlisted;

f) the members of the House of Delegates should exert personal influence in their own localities to see that legal aid offices are established and supported.

In 1945, the American Bar Association created the office of Executive Director of the Legal Aid Committee to aid local communities in establishing and strengthening legal aid units.

In 1950, the American Bar Association declared that strengthening legal aid and lawyer referral services were among the long-range goals of the association.

In 1951 the first comprehensive study and evaluation of legal aid was completed by the late Emery A. Brownell under the American Bar Association-sponsored Survey of the Legal Profession.

As the result of the continuous studies of legal aid, the House of Delegates in 1960 passed a series of resolutions establishing minimum organizational requirements for legal aid societies.

In spite of the efforts of the American Bar Association and its sister organization, the National Legal Aid and Defender Association, legal aid units across the country continued to be severely underfinanced and understaffed. In 1965, legal aid societies spent only 4.3 million dollars for civil legal assistance, with an additional 5 million dollars for defender services. Of the 32 million poor persons in this country, only 600,000 received assistance in both criminal and civil cases.

In February, 1965, the House of Delegates formally recognized that the needs of the poor could not be fully met with the limited resources of privately financed legal assistance. Their pledge, "to cooperate with the Office of Economic Opportunity and other appropriate groups in the development of services to indigents and persons of low income," continues the American Bar Association's long standing support of legal assistance to the poor.

THE ECONOMIC OPPORTUNITY ACT AND THE LEGAL SERVICES PROGRAM

Congress declared in enacting the Economic Opportunity Act of 1964, "The United States can achieve its full economic and social potential as a nation only if every individual has the opportunity to contribute to the full extent of his capabilities and to participate in the workings of our society." Lawyers are of singular importance in aiding this effort. Neither equal opportunity nor equal justice can be achieved for this nation's poor—some 32 million persons living in families with annual incomes of under $3000—unless they are represented by counselors and advocates.

Title II–A of the Economic Opportunity Act authorizes the formation of locally sponsored community action agencies to mobilize all resources within the locality to combat poverty. The expansion of the kinds of programs authorized under Title II–A was sanctioned by the Senate Committee on Labor and Public Welfare in a report which stated, "The listing of activities in Section 205(a), of course, is not intended to exclude other types of activities related to the purpose of the community action programs, such as legal services to the poor . . ." (Sen. Rept. No. 599, 89th Congress, 1st Sess. 9, 1965).

The Legal Services Program was developed as part of this comprehensive attack on the cycle of poverty. National leaders of the organized bar and government officials began formulating plans for such a program in the early months of 1965. There followed, in June, a National Conference on Law and Poverty which demonstrated the urgent need for expanded legal services for the poor. National publicity was given to the emerging program at the Annual Meeting of the American Bar Association in Miami held in August. By September, the Legal Services Program within the Office of Economic Opportunity was formally established with the appointment of E. Clinton Bamberger, Jr., as its first Director.

The dialogue between government officials and the organized bar continues as it did during the formative days of the program. The support of the ABA and of the local and state bar associations will go far to ensure the success of these programs.

THE GUIDELINES

There is no standard legal services program prescribed by OEO. There are Guidelines to assist applicants in the formulation of proposals. These Guidelines, established in the fall of 1965, are not the product of OEO officials alone. Sharing in their formulation was the National Advisory Committee to the Legal Services Program. This Committee is composed of outstanding members of the Bar, including the immediate past President, President, and President-elect of the American Bar Association, the Chairman of the ABA Standing Committee on Legal Aid and Indigent Defendants, and the President of the National Legal Aid and Defender Association.

In many areas, existing legal aid societies or components of local bar associations have taken the lead in formulating programs. Generally, these programs are operated by the legal services organization as a "delegate agency" of a community action agency.

Applications must be submitted by interested groups in local communities. To aid these groups, OEO has prepared "Guidelines for Legal Services Programs" and a pamphlet entitled "How to Apply for a Legal Services Program." In addition, OEO will provide, upon request, consultants to local groups in the preparation and processing of applications for legal services programs.

Once an application is filed with OEO, it is reviewed by the Legal Services Officer of the appropriate OEO Regional Office and receives a concurrent review by the legal services staff at the national headquarters in Washington, D.C. While there is no model program or rigid formula to be followed for the establishment of a legal services program, there are certain guidelines within which all OEO-funded programs must operate.

First, all legal services programs must be under the direction of a governing board separate from the board of the community action agency, thus insuring independence of action on the part of the legal services program. Representatives of the groups and areas to be served must be included on this board to meet the statutory mandate of "Maximum feasible participation of residents of the areas and members of the groups served." Such participation is also obtained by employing neighborhood residents in nonprofessional capacities. Programs funded during the first year of the Legal Services Program are supervised by governing bodies which nationally average over 50 percent lawyers and 30 percent representation of the groups and areas to be served.

Second, no program will be funded which provides services for those who can afford an attorney. The exact standard of eligibility must be determined on the local level and should be flexible to accommodate individual problems caused by illness, long periods of unemployment, or other misfortune. Accommodation to different localities and economic conditions has produced a wide variation of eligibility standards. The average income standard for a single person in funded programs is $2,200 per year, but the range varies from a low of $1,200 in certain rural areas to $3,380 in a few large cities. For a family of four, the average standard is $3,360 with a range from $2,000 to $5,200.

The existence of more effective and comprehensive legal services programs for the indigent has resulted in a dramatic increase in the number of applicants coming to lawyer referral services. Many persons who can afford to retain a private attorney do not know how to secure legal assistance and often apply at a neighborhood law office. For example, in California's Alameda County where a pioneer OEO program has been operating for over a year and a half, the number of referrals to the County Bar Association Referal Service quadrupled. And in New Haven the birthplace of the neighborhood law office, the County Bar Association reported that referrals have increased threefold since 1963.

Third, there should be no arbitrary limit to the scope or the type of civil legal services provided to clients. All areas of the civil law should be included and a full spectrum of legal work should be provided: advice, representation, litigation, and appeal. Service may be afforded to eligible clients in areas of the criminal law where representation is not constitutionally required, such as misdemeanors, juvenile court, competency proceedings, if such representation is not provided locally.

Fourth, the Economic Opportunity Act limits the share of Federal expenditure in most cases to 90 percent of the cost of the program. The local community must provide the balance; however, the contribution can be either in cash or in the fair value of donated equipment, furniture, supplies, space, etc. In addition, the services of volunteer attorneys may also be counted in the non-Federal share. Most funded Legal Services Programs depend upon the contribution of volunteer services of private attorneys for a substantial portion of their non-Federal share.

Fifth, and most important, no Legal Services Program will be funded by OEO which will in any way violate the Canons of Professional Ethics.

EXAMPLES OF PROGRAMS FUNDED

E. Clinton Bamberger, Jr., in his first major address to the annual meeting of the National Legal Aid and Defender Association in November 1965, asked local communities to "accept bold ideas, new theories, courageous innovations and disputed principles with an open and inquisitive mind and a renewed commitment to make the law an instrument of advantage for disadvantaged people." The response to this challenge has been an unprecedented year of innovation and sound experimentation in the legal services field. Diversity and quality have been the watchwords of most programs funded during the past year.

The nation's capital provides a prime example of a large urban program. Over 25 attorneys, operating out of eight neighborhood offices, handled 7,747 matters during the project's first year of full scale operation. A law reform unit has been established to provide special attention to cases which might have an important impact on poverty. Community education is also featured—an illustrated brochure concerning common legal problems of the poor has been distributed in low-income neighborhoods, and skits illustrating legal pitfalls have been presented.

A large, new program in Philadelphia contains several innovative features. The neighborhood law offices will be supported by a Consumer's Advocate, staffed by one full-time attorney. This lawyer will undertake activities which are remedial in nature such as prosecuting test cases, drafting legislation, or conducting community education campaigns. The program also contains provisions for representation of indigent minors in the Juvenile Court.

Indianapolis presents an example of a program utilizing all metropolitan resources. The program was developed with the aid of the Indiana University School of Law and the University's School of Social Work. The former will begin an Urban Legal Problems Institute to provide needed research on legal problems of the poor. The latter will place a social worker in the legal services offices to augment traditional referral services.

In St. Louis, the bar association has undertaken an extensive program of legal education in target area communities. Volunteer lawyers have prepared detailed outlines in five substantive areas of law relevant to the poor. These have been utilized by a large panel of lecturers in the preparation of their talks.

Houston, Texas, presents an example of a large combined criminal and civil program to meet the complete legal needs of the poor. The Houston Legal Foundation, a prestigious legal group in that city, obtained a Ford Foundation grant to finance the criminal portion of that program and operates the civil phase under an OEO grant.

Legal services grants have not been restricted to large cities by any means. The neighborhood law office approach also will be used in medium-sized cities such as East St. Louis, Illinois; Lynn, Massachusetts; and Chester, Pennsylvania. These techniques also will be employed in relatively small cities such as Carbondale, Illinois, and Fort Pierce, Florida.

Different means must be utilized to reach the rural poor. Under a large grant to provide legal assistance to California migrants, 10 law offices will be located in rural areas throughout the State where adequate legal aid is not now available. A central office in Los Angeles will house the research staff for this component.

In other rural areas, new methods are being tested. Under an OEO grant, the State bar of Wisconsin has initiated a Judicare program. Indigents in 27 northern counties will have their legal matters handled by a private attorney who then will be reimbursed at a reduced rate from the Judicare fund. (This experimental program will not be repeated during the coming fiscal year.) A different approach will be utilized in the nearby Upper Peninsula of Michigan where attorneys will staff offices in six towns and will revive the practice of "circuit riding" to serve other areas. This technique will also be used in Montana where one lawyer will provide legal services to seven rural counties on a rotating basis.

Another innovation to meet the legal needs of the rural poor is the mobile law office, adapting techniques used for many years by the public health services. Under a grant to the Delaware County (Oklahoma) Legal Services Board, a mobile law office will make regularly scheduled visits to the small rural communities in the county.

Similar techniques will be used to reach the forgotten poor—the American Indians. Members of four Indian tribes will receive legal services under OEO funded programs. The most ambitious of these projects is an $872,851 grant to the Navajo Legal Aid and Defender Society of Window Rock, Arizona. This program, located on the largest reservation in America, consists of five offices, strategically established in the 25,000 square mile area, to serve as home bases for the circuit-riding attorneys. This single program will reach over 30 percent of the Indian population presently living on reservations in the entire United States.

Law schools will play an important role in mobilizing the legal war on poverty. The University of Detroit Law School has restructured its curriculum to add new courses in such areas as employee rights and public assistance laws. Its law review will be converted this fall into The Journal of Urban Law to encourage scholarly research in the problems of the poor. A graduate program in urban law will be established to give more intensive training to those lawyers who want to teach and practice in the field.

Law and poverty will receive intensive study under a grant made to the School of Law of the University of Mississippi. In addition, the students will work with staff lawyers of two neighborhood clinics to be established by the law school in Oxford, Mississippi, and will also work with practicing attorneys in the community handling cases for the indigent. Such clinical work will be tied directly to courses at the school.

The law schools at Notre Dame and Southern Methodist University will oversee the operation of neighborhood law offices in their communities. Harvard Law School will establish a model law office in Cambridge, Massachusetts.

Other programs wil be oriented to law research. The Columbia University School of Social Work will make extensive studies of the law relevant to social welfare. The staffs of the program will offer aid in the preparation of briefs and pleadings for test cases in this area. Under another grant to Columbia University, its Bureau of Applied Social Research will measure the impact of consumer credit systems and garnishment practices on the poor.

State bar associations will also participate in the War on Poverty under OEO grants. The Ohio State Bar Association will render technical assistance to local communities in establishing their own legal services program. It will conduct a training program for lawyers staffing legal services programs in that state. Bar-related institutes in New Jersey and California will conduct similar training programs. As mentioned before, State bar associations in Montana and Wisconsin received grants to operate legal services programs.

The American Bar Foundation has been awarded a research grant to survey existing facilities for providing legal services to the poor and to study the impact of the different forms of providing legal assistance. This research and the intensive evaluation of three funded programs to be undertaken by the Center for Law and Society at the University of California should yield information which will be useful to all legal services projects.

These are just a few examples of the legal services programs that have been funded. They do not exhaust the possible range of programs that can be tailored to meet individual community needs.

LAW STUDENTS, RECENT GRADUATES, AND PRACTICING ATTORNEYS

*Law student training program*

Most law schools have appointed a faculty member to advise students of opportunities for part-time term-time employment and full-time summer employment in neighborhood legal services offices. Almost every funded program has a budget allowance for such expenditure, and where there are no law students available during the year, summer employment is proposed.

These activities give law students excellent practical experience under the tutelage of practicing attorneys. They also gain invaluable insights into the problems of their communities.

*Recruitment efforts*

This past spring, OEO sponsored a clearing-house for employment opportunities in funded legal services programs. Representatives were assigned to each of the 132 accredited law schools to inform students about the possibility of employment in local legal services programs. The response to this effort was extremely encouraging. Over 1,200 graduating seniors and law students applied for positions in OEO-funded programs. This recruitment campaign will be repeated in the autumn of 1966.

Efforts are under way to acquaint the large and middle size law firms with the goals of the programs and to have young attorneys in these firms take leaves of absence to work for one year in the Program.

*Professional placement*

The 160 programs presently funded offer potential employment to over 1,000 attorneys. The Legal Services Program is working in close cooperation with the Lawyer Placement Information Service of the American Bar Association to aid local project directors in securing experienced, qualified attorneys for their new neighborhood offices.

THE COMING YEAR

During the past year, important strides have been made by the legal profession and the OEO Legal Services Program. But much remains to be done.

At present there are 130 proposals pending from localities which presently have no legal services programs. More than 100 other communities have contacted us and are now in the process of formulating applications. If the poor in these areas are to have legal services, over 20 million dollars in new Federal grants must be processed and approved during the next year. This will be in addition to refunding the 160 existing projects.

Plans also have been made to render assistance to the new grantees, particularly those communities which have not had organized legal services in the past:

A roster of consultants, men and women experienced in operating legal aid societies or other legal services organizations, will be available to render assistance to newly funded projects.

A monthly newsletter will be distributed to all legal services agencies containing pertinent information on new grants, interesting cases, and applicable journal articles.

Negotiations are underway with publishers to develop a looseleaf service helpful to lawyers serving the poor.

A three-day meeting of all legal services project directors will be held to discuss administrative problems, field experiences, and research efforts.

Research data collected from legal services programs will be coordinated with material collected by the American Bar Foundation in order to provide a more comprehensive analysis of legal services projects in their continuing efforts to meet the legal needs of the poor.

Today, as Attorney General Katzenbach has noted, "the poor man is cut off from this society—and from the protection of its laws. We make him, thus, a functional outlaw." Not only is this situation untenable within a free democratic society, but its disastrous effects have been witnessed in Harlem, Rochester, Watts, Omaha and Chicago.

In order for there to be a different tomorrow, the organized bar, the legal profession, and the Federal Government have pledged themselves to correct the practices which discriminate against the poor and to institute programs which will enable the poor man to learn of his rights and obligations under the law.

On June 30, 1966, Judge Alexander of the Pennsylvania Court of Common Pleas granted a charter to the neighborhood legal services project in the city of Philadelphia. His opinion sounds the theme of the Legal Services Program as it enters its second year.

"The sum of the matter is that the role of the legal profession is critical in the struggle against poverty to which the national effort is firmly committed. The public interest surely demands that role go forward with all possible speed and without delay."

"Let it begin—Now."

APPENDIXES

*Funded Legal Services Programs July 1, 1966*

Alaska

Juneau (Anchorage), Alaska Legal Services Corp., $362,422.

Arizona

Phoenix, Maricopa County Legal Aid Society, $73,408.

Tucson, Pima County Bar Association Legal Aid Society, $165,066.

Window Rock, The Legal Aid and Defender Society of the Navajo, $872,851.

Arkansas

Little Rock, Legal Aid Bureau of Pulaski County, $32,582.

California

Berkeley, University of California Center for Study of Law & Society, $48,028; Regents of University of California, Univ. of Calif. Ext., $179,231.

Compton, Southeast Neighborhood Legal Services Society, $258,451.

Fremont, Legal Assistance Center of Washington Township, $111,148.

Fresno, Fresno County Legal Services, Inc., $92,404.

Long Beach, The Legal Aid Foundation of Long Beach, $156,005.

Los Angeles, LA Neighborhood Legal Services Society, Inc., $333,129; San Gabriel Valley Neighborhood Law Offices, $103,264.

Los Angeles Co., Legal Aid Foundation of Los Angeles County, $316,102.

Oakland, Legal Aid Society of Alameda County—Livermore Area, $12,758; Legal Aid Society of Alameda County—Eden Area, $78,031; Legal Aid Society of Alameda County, $134,486.

Oxnard, Legal Aid Association of Ventura County, $64,798.

Pacoima, San Fernando Valley Neighborhood Legal Services, Inc., $111,898.

Redwood City, Legal Aid Society of San Mateo County, $110,303.

Sacramento, Sacramento County Legal Aid Society, $124,397.

San Diego, Legal Aid Society of San Diego, Inc., $77,458.

San Francisco, Neighborhood Legal Assistance Program, $330,331.

Statewide, California Rural Legal Assistance, Inc., $1,276,138.

Visalia, Legal Services Association, $75,153.

Colorado

Colorado Springs, Colorado Springs Legal Services Program, $73,795.

Denver, University of Denver Law Center, $75,135.

Pueblo, Pueblo's War on Poverty, Inc., $84,312.

Connecticut

Bridgeport, Bridgeport Legal Services Committee, Inc., $112,274.

Hartford, Neighborhood Legal Services, Inc., $53,400.

New Britain, Legal Aid Board of New Britain, $49,653.

New Haven, Dixwell Legal Rights Association, $40,248; New Haven Legal Assistance Association, Inc., $150,421; New Haven Legal Assistance (Research), $14,207.

Norwich, Legacy, Inc., $52,555.

Waterbury, Legal Consumer Action Program, $42,583; Waterbury Legal Aid and Referral Service Inc., $41,370.

Delaware

Wilmington, Legal Aid Society of Delaware, Inc., $79,909.

District of Columbia

Washington, Neighborhood Legal Services Project, $626,234; Howard University, $33,822; Georgetown University Law Center, $64,912; Washington, D.C., Legal Aid Agency Summer Student Program, $10,182.

Florida

Daytona Beach, Volusia County Legal Service, Inc., $146,364.

Fort Pierce, Legal Services, Inc., $75,820.

Miami, Economic Opportunity Legal Services Program, Inc., $199,146.

St. Petersburg, Migrant Legal Services, Inc., $806,099.

Georgia

Atlanta, Atlanta Legal Aid Society, Inc., $163,495; Legal Services Program of EOA, Inc., $59,207.

Hawaii

Honolulu, Legal Aid Society of Hawaii, $163,445.

Illinois

Carbondale, Jackson County Legal Services Committee, $53,361.

Chicago, National Legal Aid and Defender Association, $32,381; American Bar Foundation Legal Services for the Poor, $139,943; Community Renewal Foundation, $69,601; Legal Aid Bureau, United Charities, $166,261.

Danville, Legal Services, $66,264.

East St. Louis, Economic Opportunity Commission of St. Clair County, $131,406.

Edwardsville, Legal Services Society of Madison County, $85,114.

Eldorado, Legal Services Program, $59,589.

Karnak, Shawnee Development Legal Aid Program, $65,805.

Mt. Vernon, Counties Community Action Agency, Inc., $45,845.

Peoria, Greater Peoria Legal Aid Society, $53,716.

Urbana, Economic Opportunity Council of Champaign County, $28,660.

Waukegan, Legal Services Program, $71,661.

Indiana

Fort Wayne, Fort Wayne Legal Aid Society, $57,058.

Gary, Legal Aid for Gary, Inc., $59,571.

Indianapolis, Legal Services Organization, $259,660.

Notre Dame, Center for Study of Man—Notre Dame University, $101,755.

Iowa

Des Moines, Iowa State Bar Association, $48,850.

Waterloo, Black Hawk County Legal Aid Society, $71,613.

Kansas

Kansas City, Wyandotte County Legal Aid Society, Inc., $70,912.

Kentucky

Louisville, Legal Aid Society of Louisville, $288,764.

Louisiana

Kinder, Allen Parish Legal Services Program, $41,476.

Maine

Augusta, Pine Tree Legal Assistance, Inc., $188,555.

Maryland

Baltimore, Legal Aid Bureau, $233,927.

Massachusetts

Boston, Boston Univ., School of Law, $96,608.

Boston, Voluntary Defenders Committee (statewide), $579,544.

Cambridge, Harvard Law School (grantee), $79,183.

Fitchburg, North Worcester County Legal Aid Society, $33,972.

Lynn, Neighborhood Legal Services, Inc., $57,196.

New Bedford, Onboard Legal Services Program, $46,409.

Worcester, Legal Services Policy Committee, $60,169.

Michigan

Ann Arbor, Washtenaw County Legal Aid Society, Inc., $97,620.

Battle Creek, Legal Services for Indigents of Calhoun, $78,625.

Bay City, Bay-Midland Area Commission on Economic Opportunity, $98,287.

Detroit, University of Detroit School of Law, $242,579; Neighborhood Legal Service Centers, $360,125; Wayne County Legal Services, Inc., $332,053.

Escanaba, Upper Peninsula for Area Progress; $195,407.

Grand Rapids, Legal Aid Society of Grand Rapids & Kent County, $133,901.

Macomb County, County Action Agency, $211,922.

Muskegon, Muskegon-Oceana Legal Aid Bureau, Inc., $62,831.

Saginaw, Legal Services, $77,828.

Minnesota

Minneapolis, Legal Aid Society of Minneapolis, $72,274.

St. Paul, Legal Assistance for Ramsey County, Inc., $154,667.

Mississippi

Clarksdale, Coahoma County Legal Services Committee, $82,772.

Oxford, University of Mississippi School of Law, $282,258.

Missouri

Columbia, Legal Aid Society of Central Missouri, $168,786.

Kansas City, Legal Aid and Defender Society of Greater K.C., $178,949.

St. Louis, Legal Aid Society of St. Louis, $267,185.

Montana

Billings, Montana Legal Services Assn., $215,198.

Nebraska

Omaha, Legal Aid Society of Omaha, $69,106.

New Hampshire

Littleton, Tri County Legal Services Program, $162,775.

New Jersey

Jersey City, CAN-DO Legal Service Program, $67,268.

Newark, Legal Services Center, $278,237; The Newark Legal Services Project, $279,269; Institute for Continuing Legal Education, $50,168.

New Brunswick, Middlesex Legal Services Corp., $98,814.

Paterson, Passaic County Legal Aid Society, $217,448.

Trenton, Mercer County Legal Aid Society, Inc., $67,041; New Jersey Office of Economic Oppor., $40,143.

New Mexico

Albuquerque, County Legal Aid Society of Albuquerque, Inc., $110,315.

Bernalillo, Sandoval County Economic Opportunity Corp., $38,867.

Zuni, Zuni Legal Aid and Defender Association, $88,239.

New York

Albany, Legal Aid Society of Albany, Inc., $99,692.

Bay Shore, Legal Aid Society of Suffolk, $159,440.

Buffalo, Legal Aid Bureau of Buffalo, Inc., $175,667.

Mineola, Nassau Legal Services Committee, Inc., $243,831.

New York City, Vera Foundation, $116,970; Columbia University, Sch. of Soc. Work, $112,360; Bureau of Applied Social Research, Columbia University, $98,450; New York Economic Opportunity Comm. 1. Community Action Legal Services, $208,684; 2. Neighborhood Legal Services, Inc., $677,268; 3. Mobilization for Youth, $515,258; 4. Youth in Action, $494,056; 5. Harlem Assertion of Rights, $869,461; 6. Legal Aid Society, $673,-444, $3,438.171.

Poughkeepsie, Legal Services Corp., $25,-051.

Syracuse, Neighborhood Legal Services Program, $214,335; University of Syracuse, $10,-594.

North Carolina

Charlotte, Charlotte-Mecklenburg Legal Services, Inc., $232,997.

Durham, Durham Legal Assistance Program, $46,705.

Rockingham, Tri-County Community Action, Inc., $163,912.

Winston-Salem, Forsyth County Neighborhood Legal Services Board, $174,270.

Ohio

Cincinnati, Legal Aid Society of Cincinnati, $187,484.

Cleveland, Legal Aid Society of Cleveland, Inc., $160,165.

Columbus, Legal Aid and Defender Society of Columbus, $115,778.

New Philadelphia, Tuscarawas County Legal Services Corp., $34,423.

Statewide, Ohio State Legal Services Assn., $59,550.

Toledo, Toledo Legal Aid Society, $56,925.

Oklahoma

Jay, Delaware County Community Action Foundation, $69,460.

Oklahoma City, The Legal Aid Society of Oklahoma County, Inc., $212,373.

Oregon

Portland, Legal Aid Committee of the Multnomah County Bar Assn., $56,912.

Pennsylvania

Chester, Greater Chester Movement, $121,-354.

Philadelphia, Community Legal Services, Inc., $745,637.

Pittsburgh, Neighborhood Legal Services Assn. $222,516; Legal Aid Society, $27,000.

Scranton, Legal Aid & Defender Assn., $39,112.

Wilkes-Barre, Legal Aid Society, $139,954.

Puerto Rico

San Juan, Hato Rey, Puerto Rico Legal Services, Inc., $870,554.

Rhode Island

Providence, Providence Legal Services, $197,871.

South Dakota

Eagle Butte, Legal Aid Services, $40,479.

Rosebud, Rosebud Tribal Council, $48,877.

Tennessee

Chattanooga, Legal Aid Society of Chattanooga, $9,810.

Knoxville, Legal Aid Clinic—Knoxville Legal Aid Society, $78,412.

Oak Ridge, Oak Ridge Associated Universities, $23,646.

Texas

Austin, Legal Aid and Defenders Society of Travis County, $100,596.

Corpus Christi, Legal Aid Society of Nueces County, $16,172.

Dallas, Dallas Legal Services Project, $359,404.

Houston, Houston Legal Services Program, $704,486.

Laredo, Laredo Legal Aid Society, Inc., $62,227.

Utah

Ogden, Weber County Bar Legal Services, Inc., $96,252.

Salt Lake City, Salt Lake County Bar Legal Services ($118,438); Salt Lake Defender Legal Services Program ($55,372), $173,810.

Virginia

Roanoke, Legal Services Corp., $151,409.

Washington

Seattle, Seattle-King County Legal Aid Bureau, Inc., $91,604.

West Virginia

Charleston, Legal Aid Society of Charleston, $108,667.

Wisconsin

Madison, State Bar of Wisconsin, $240,181.

Milwaukee, Board of Legal Services, Inc., $139,604; Marquette University Law School, $156,536.

NATIONAL OFFICE

Office of Economic Opportunity, Director of the Legal Services Program, 1200 19th Street, N.W., Washington, D.C. 20506, Tel.: (202) 382-7305.

OEO REGIONAL OFFICES

Northeast Region: 40 East 41st Street, New York, New York 10017, Tel.: (212) 573-6451; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont.

Mid-Atlantic Region: 1730 K Street, N.W., Washington, D.C. 20506, Tel.: (202) 382-4549; Delaware, District of Columbia, Kentucky, Maryland, North Carolina, Pennsylvania, Virginia, West Virginia.

Southeast Region: 101 Marietta Street, Atlanta, Georgia 30303, Tel.: (404) 526-4566; Alabama, Florida, Georgia, Mississippi, South Carolina, Tennessee.

Great Lakes Region: 623 South Wabash Avenue, Chicago, Illinois 60605, Tel.: (312) 828-5780; Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Southwest Region: Lowich Building, 314 West 11th Street, Austin, Texas 78701, Tel.: (512) 476-6411, Ext. 6884; Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

North Central Region: Pershing Building, 215 West Pershing Road, Kansas City, Missouri 64104, Tel.: (816) 374-3859; Colorado, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming.

Western Region: 100 McAllister Street, San Francisco, California 94102, Tel.: (415) 556-8440; Alaska, Arizona, California, Hawaii, Nevada, Oregon, Washington.

Special Projects Office: Community Action Program, Office of Economic Opportunity, Washington, D.C. 20506, Tel.: (202) 382-5165; Indian Reservations, Migrant Projects, Puerto Rico, Virgin Islands, Guam, Trust Territories of the Pacific.

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[From the Washington (D.C.) Post, Aug. 30, 1966]

JUSTICE FOR THE POOR

No part of the poverty program has come more realistically to grips with the needs of poor people than the provision of free legal aid to those who find themselves embroiled with the law. Poverty and ignorance are closely correlated; and unhappily there are many who are eager to exploit and take advantage of them. Poor people are heavily disadvantaged by ignorance of their rights and by their inability to hire lawyers when they are accused of crime. They are perhaps even more disadvantaged when they are subjected to civil suits by landlords and creditors who may be shrewder and more knowing about the law.

Neighborhood Legal Services has set about redressing this imbalance in Washington. It has gone into court in behalf of the helpless with so much effectiveness that a small group of local lawyers accustomed to using the courts as automatic collection agencies have cried out in dismay; some of them no doubt would be glad to wrest what fees they could from the poor as clients.

It is clear that these lawyers inveighing against Neighborhood Legal Services do not speak for the Bar Association or represent the legal profession generally. The District Bar Association has been active on its own account in making lawyers available to the indigent without charge. And the American Bar Association has given warm support to the free legal aid provided by the poverty program.

The House Labor Committee earmarked $22 million for legal services for the poor in the pending poverty program bill. The Office of Economic Opportunity has requested no specific allocation for this activity; but it is clear that it ought to be given much more—at least $50 million. We hope heartily that the Senate Labor Committee, scheduled to take up the Economic Opportunity Act today, will act imaginatively and generously in assuring funds to provide legal services for the poor. It amounts to nothing less than an assurance of justice, an assurance of equality before the law. That assurance can mean a great deal in giving poor people a sense of belonging to the community.

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[From the (Washington, D.C.) Evening Star, Aug. 29, 1966]

THE LAW AND THE POOR

The Senate Committee on Labor and Public Welfare now has before it a bill that would provide, among other things, for a marked expansion of the Legal Services Program of the Office of Economic Opportunity. The committee will be doing a good day's work if it votes in favor of the program's activities and a supporting outlay of around $50 million for fiscal 1967.

Although poorly publicized up to now, these activities have been, and continue to be, so impressive that the American Bar Association is one of the program's strongest supporters. Indeed, besides advocating affirmative congressional action, the ABA has made clear that it stands behind efforts to recruit law-school graduates and other young lawyers to dedicate a few years of their lives to the enterprise.

Like the Peace Corps, this legal arm of the OEO is made up of relatively young people who have an admirable desire to be of service of their hard-pressed fellow-men. They are doing a good job, as shown by their record among us in Washington. Here they have 10 offices in slum areas, and 29 lawyers, and they have effectively handled nearly 5,000 legal cases in the first six months of this year.

Obviously these are statistics that speak well for the OEO's legal-aid branch. Congress should give the project the support it must have to do the job that needs to be done among the troubled indigents of America.

## LAND CONSERVATION AND PRESERVATION OF RECREATION AREAS

Mr. KENNEDY of Massachusetts. Mr. President, the July–August and September–October issues of Audubon Magazine, published by the National Audubon Society, carry a two-part series of articles on the destruction of fishing streams, recreation areas, parks, forests, wildlife habitat, and the land itself through careless construction of highways. It is a sobering, comprehensive series by a careful reporter, William G. Wing, who covered conservation and natural resource affairs for the New York Herald Tribune.

Mr. Wing gives credit where due, to the distinguished junior Senator from Montana [Mr. METCALF] and the distinquished Congressman from Michigan [Mr. DINGELL] for their leadership in focusing attention on the need for a better national policy and proposing legislation that would achieve this desirable goal.

It is time for the Congress to take strong action to bring the Nation's needs for land conservation and preservation of recreation areas into balance with the requirements of the highway construction program. In my opinion, Congress must respond quickly to the problem, before more hundreds of miles of trout streams are forever lost, before more rich earth upheaved by the bulldozers is swept to the sea, before more land needed sorely for recreation is instead casually beribboned by concrete.

Mr. President, I ask unanimous consent to insert in the RECORD the two articles to which I have referred, entitled "The Concrete Juggernaut" and "What To Do Before the Highway Comes."

There being no objection, the articles referred to are ordered printed in the RECORD at this point.

[From Audubon Magazine, July–August 1966]

THE CONCRETE JUGGERNAUT—PART I

(By William G. Wing)

The scene from the bus was like a classic battle painting—Napoleon's legions on the height at Jena. It was midwinter. In the heavy morning mist, knots of men dotted the long white slope, clustered around giant machines like artillerymen serving field pieces.

The machines were hammering at the rock under the snow, rhythmic puffs of steam rising into the mist. Around the foot of the slope, trucks and derricks and the heavy equipment of a mechanized force rumbled.

Framed by the heavy mist and the fog on the bus window, the scene had a sweep and power which is in no way conveyed by the fact the men were road builders, working on Route 80, a new expressway in New Jersey.

They were cutting and blasting through the crown of the Hudson Palisades, basaltic trap rock which is a textbook example of natural resistance. The rock had resisted weathering, glaciers and every other natural force for 100 million years. Now it was being sliced like a Holland cheese so a wedge 100 feet deep could be removed to let the expressway through.

Highway builders changed that ancient crag more in a few months than the forces of nature had since the Jurassic period. Engineers had reached this ability to alter the face of the land in just a few generations, their skills sharpened by the public works of peace and the tactical needs of global warfare.

Today, the road builders represent irresistible power. They accomplish feats that once belonged to mythology alone—moving mountains, shifting rivers, leaping chasms. They stand ready, it seems, to lattice the face of the earth with concrete.

Theirs is an awesome force. It is the force that must be reckoned with, increasingly, by those concerned with preserving natural resources in America.

Conservationists have long battled with lumber merchants ravaging forests, industries befouling rivers, land speculators dedicated to the quick buck, and, more recently, big federal agencies such as the U.S. Army Corps of Engineers and the Bureau of Reclamation. These have been almost traditional foes. Road builders haven't been in the same league.

Though the biggest jump in highway construction mileage did occur from 1904 to 1921, road building was rarely a gargantuan force until the superhighway era. Despite the network of early roads, the impact on the countryside was gradual. The roads were narrow, and many were unpaved. There was a lot of open land. If a good fishing stream was blocked or a grove of hickory trees was slashed by the road builders, you could go a little farther and find another stream and, maybe, other hickories. Compared to the great reclamation and dam-building projects of the '30's, road building was a minor landscape changer.

Now the balance is altered. As space becomes scarcer, highways become wider. Any fishing stream or hickory grove knocked out now may be the last in 20 counties. The roads themselves are no longer modest; they are dominating. They no longer meekly follow the topography, because engineers can put them anywhere—over, under, around and through. Roads rival all other engineering projects.

Federal aid to the states for highways is now approximately $4 billion a year. In comparison, the U.S. Army Corps of Engineers gets about $1.2 billion for public works and the U.S. Bureau of Reclamation about a third of a billion.

Furthermore, the highway force is aggressive. No other activity so constantly threatens and intrudes into nature sanctuaries as does highway planning. And no force is harder to reckon with.

Sheer magnitude is the chief reason. The mountain of dollars spent on vehicles and roads each year is approaching 100 billion. If money makes the mare go, this mare must go fast. Too many incomes, too many returns, are at stake to brook much opposition. Since America discovered the automobile, nothing has been too good for the family car and truck. Roads are going wherever Americans want to go. State highway departments have become all-powerful and nearly immune to public pressure.

Who *can* make the routes swerve to avoid valuable open space?

American highway builders are now a little past the middle of an advanced course called the National System of Interstate and Defense Highways. When the program started, President Dwight D. Eisenhower described it as the biggest public works project in history. The claim hasn't been challenged. other massive engineering works of mankind—the Pyramids, Great Wall of China, Suez and Panama canals, Noah's Ark and even the Tower of Babel—are small-scale operations.

The facts about American road building are much too vast to be absorbed easily. Road building is the biggest business in America. It is the biggest tax-supported domestic program. One of every seven Americans has a job connected with highway transportation. One of every six businesses is connected with highway transportation. The operations of seven of the ten biggest corporations in the world (three automobile manufacturers and four oil companies) are based on highway transportation.

The Federal Bureau of Public Roads estimates highway users spent $96 million last year to own and operate vehicles. About 12 per cent of this total went into highways. This 12 per cent is an amount almost 800 times greater than the price we paid France for one-quarter of the United States, the Louisiana Purchase slice from Montana to the Gulf of Mexico.

One would imagine from seeing the General Motors Corps. Futurama at the New York World's Fair that the spending and construction limits aren't even in sight. One diorama, you may remember, showed a caravan of machines of the future moving through a jungle in a nonstop clearing-and-paving operation. The machine in front knocks out trees and vegetation with laser beams; the machine at the end excretes the ribbon of concrete.

What word comes to mind? Juggernaut? Unlike the irresistible monster of Hindu lore, however, the modern Juggernaut leaves a permanent trail. Highway supervisors say a modern highway has a life expectancy of only 25 years, but it hardly seems arguable that, as a change in the landscape, highways are permanent. Once laid, paved roads tend to stay laid.

General Motors did *not* have a diorama showing an error-correcting caravan, the front machine gobbling up concrete, middle machines plowing and fertilizing, and a rear machine spewing a trail of violets. In the matter of permanence, look at history. Considering the fact that traffic still moves along parts of the Appian Way, the Roman engineers who selected the route 2,285 years ago can be said to have made a fairly permanent decision.

In the United States there are about 3.6 million miles of roads, which figures out to a mile of road for every square mile in the country. The peculiar significance of the Interstate system, however, lies not in its mileage but in the impact of its immense rights-of-way. The Interstate system will add only one per cent to the country's total highway mileage—41,000 miles by 1972. However, its effect on the landscape will be much greater than that would seem to indicate, for two reasons:

(1) Three-fourths of the Interstate routes will be through new territory, and (2) the Interstate expressway rights-of-way tend to be about *ten times* wider than the old highway rights-of-way, which were about 33 feet wide.

Before the Interstate program began in 1956, the amount of land in rights-of-way was estimated by some economists at 15 million acres, which is about the size of West Virginia. Going by the assumption that Interstate rights-of-way average about 30 acres a mile, they speculated that the program might add another million acres to the total. The Bureau of Public Roads doesn't keep figures on the acreage of the system, or, if it does, it doesn't give them out readily—presumably because they lead to what the bureau considers grossly exaggerated charges about land gobbling.

Ironically, there is a magnetism that draws these wide swaths of expressways toward places where they are not wanted. The magnetism attracting highways to watercourses, which are easily damaged, is that stream beds furnish the easiest routes through rugged country. The magnetism of parkland or state forestland is that it is open, "undeveloped" and already in public hands.

"The problem up to this point has been this philosophy," George B. Hartzog, Jr., director of the National Park Service, said at the 1965 White House Conference on Natural Beauty, "that if it is a park, it is free, and, certainly, if it is a park, it is open. So it is easy.

"Somehow, they [the highway planners] seem to be able to find a blue pencil that hits the green spot."

Some prime examples:

Route 17, New York's Quickway, is being reconstructed for 18 miles along America's most famous trout streams, the Beaverkill and Willowemoc Creek in the Catskill Mountains.

This is the stream where dry-fly fishing is believed to have originated in the United States. The fight to prevent construction in the creek valley failed, but it produced changes in design to lessen the effects on the stream. The fight also produced a classic quote.

A delegation from New York went to Washington to plead that federal money, which is financing 90 per cent of the cost of the project, should not be used to harm the Beaverkill, a national resource. To this a federal official replied:

"What makes you believe a river is more important than a concrete highway?"

Interstate Route 40 is scheduled to cut through Overton Park in Memphis, Tenn. Overton, according to a national conservation official who went out to have a look, is a "jewel" among city parks.

Oklahoma Route 9 is planned for relocation through the Oliver Wildlife Refuge of the University of Oklahoma at Norman.

City officials at Key West, Fla., are pushing for a second highway to the mainland which would slice through Everglades National Park.

California Route 89 may be extended along the western shore of Lake Tahoe, requiring deep cuts in the mountains along the most picturesque side of the lake.

The Alabama Highway Department is still pushing to route Interstate 65 through Wheeler National Wildlife Refuge in northern Alabama. This refuge on one of the Tennessee Valley Authority lakes has been highly successful in attracting wildfowl. The proposed route would bisect feeding and resting areas used by as many as 50,000 geese and double that number of ducks.

Since 90 per cent of the cost will be paid from federal funds, an appeal was made to the U.S. Bureau of Public Roads to support an alternate route, a few miles away, which was suggested by the U.S. Fish and Wildlife Service. Rex M. Whitton, federal highway administrator, commented in a letter to a congressional group:

"Here again the issue is wildlife versus people . . . The conservation groups have opposed any crossing of the area and have suggested that we adopt an indirect routing which would increase costs by several millions of dollars and travel distance by several miles . . . I cannot believe that the welfare of wildlife should be given a priority over that of our citizenry, nor the national defense effort in the area involved."

These are but a handful of the conflicts constantly occurring between those who route highways and those who try to preserve open space. The citations do not even include the *cause célèbre* of modern conflicts, the fight to keep the new U.S. 101 freeway out of California's Prairie Creek Redwoods State Park.

This battle appears to have ended in victory for conservationists—an unprecedented reversal of a decision by California's powerful State Highway Commission. The freeway, at the moment, anyway, is not to enter the coastal park but bypass it on a route proposed by conservationists.

California has other conflicts, however. Among states with auto troubles, California is the archetype. It spends far more on highways than any other state (well over a billion dollars a year), and it contains a combination that guarantees conflicting forces and values—spectacular scenery, a rising population and a desperate need for roads.

The state also boasts a popular reaction against road-building methods called "the freeway revolt." If the state needs roads, you may ask, how can opposition be anything but obstruction—or "reactionary opposition" as indefatigable road and bridge builder Robert Moses recently termed it when talking about his adversaries in a New York City situation. A distinction is needed, and it will also explain the viewpoint of this article:

No reasonable person is against a transportation system any more than he is against bread and milk. Highways are vital. But at a time when the value of natural resources is increasing, because of scarcity, the question of *where* highways are to be put is just as vital as provision for the highways themselves.

Let us make it clear, then, that the effect of expressways on the land and on the natural world is not incidental and temporary but extensive and long-lasting.

The effects of highways on streams can be catastrophic. These have been well catalogued:

Highways come to stream beds because of easy grades and, sometimes, because the streams furnish gravel. A meandering stream creates expense, however, because of the cost of bridges to jump the loops. Usually it is cheaper to dig a new, short, straight course for the stream and lay the highway beside it. The meander is expendable—but, alas, the meander may furnish not only charm but the habitat of game fish as well. Eliminating the bends can turn a trout stream into a chute.

In Placer County, California, for instance, the Division of Highways relocated the fishable South Fork of the Yuba River to make way for Route 40. Out of two and one-quarter miles of river, 5,045 feet—almost a mile—was eliminated. The Department of Fish and Game tried to save as many fish as it could, recommending "stipulations" to the contractor, but as an official of the department wrote later:

"This did not work out in practice, mainly because the contractor's interpretation of 'reasonable precautions' to protect the stream was far different from the department's. Despite all that the local game warden and fisheries personnel could do, the trout population in the project area and as far downstream as Lake Spaulding was destroyed."

A survey of 24 Montana streams showed 78.4 miles of stream had been lost to highway and railroad construction. The national loss from straightening meanders must be in the thousands of miles.

A notable campaign against this practice has been waged by U.S. Sen. LEE METCALF of Montana. As part of his "SOS: Save Our Streams" campaign, he published numerous incidents of destruction in the CONGRESSIONAL RECORD. Hearings before the Special Subcommittee on Public Roads, of which he is a member, developed further testimony on stream loss.

Because state fish and game departments keep careful records of some fishing streams, it was possible for witnesses to cite precise before-and-after data for rivers in North Carolina, Michigan, Oklahoma and California. The effect of stream straightening, silt, and loss of vegetation and spawning grounds on game fish was drastic. In firing squad terminology, it was the *coup de grâce*.

The effects of highways on land areas are less well documented, but some are obvious:

One effect is caused by the divisiveness of a modern highway, which can split an area as effectively as a wall. One factor in the Prairie Creek Redwoods State Park case, for instance, was the need to preserve the unity of a complete biotic system. Prairie Creek is the only publicly owned parcel of coast redwood forest that can be considered an ecological unit. All of the watershed is within the park, which includes, as well, ocean beach, bluffs, creek bottom and upland forest. The sophisticated interworkings of this system have evolved over millenia and can be studied and enjoyed for millenia more. A freeway down the middle or along the beach, it was feared, would destroy the integrity of a natural masterpiece.

Highways alter drainage systems, with consequent changes in vegetation and habitat.

Erosion is a serious danger during construction in rugged country. Dr. William A. Niering, director of the Connecticut Arboretum, at New London, has spoken of the damage to a unique ecological system at Mt. Graham, near Tucson, Ariz., caused by erosion resulting from road building. To control erosion of hillsides in California's Golden Gate area, engineers sometimes use elaborate terracing. The end result is spectacular but a long way from the original.

Among other effects of highways is the slaughter of wildlife by cars when roads cut migration routes of big game is the West or deer trails in the East. In Michigan, to cite just one example, a record 6,052 white-tailed deer perished on highways in 1965; the damage to vehicles was estimated at $1.2 million. Many of these deer-car collisions occurred on superhighways.

Loss of nesting areas, introduction of exotic plants to roadsides, damage from roadside spraying, and, psychologically, distress from a road's being too obtrusive in a quiet countryside—these are additional results of highway building.

The effects of highways on ecology—outside of stream damage—seem to have remarkably little documentation. The scientific community is slow in supplying data for an intelligent understanding of the subject.

Just how this lack of hard facts hampers efforts to preserve valuable land is indicated in another paragraph of the letter from Federal Highway Commissioner Whitton quoted earlier in connection with the Wheeler refuge case. Mr. Whitton issued the challenge this way:

"Actually, we are unaware of just how this highway is considered to be detrimental to the continued operation of the refuge. We have conscientiously sought for cases where a highway through such areas has damaged the area's usefulness and have found none. There are no 'before and after' examples known to us or to the Bureau of Sport Fisheries and Wildlife. Contrarily, many examples are in existence which show otherwise. Other than the reduction of the area by the amount needed for the highway we find no effect to this area."

Let us pray the "before and after" examples Mr. Whitton was unable to find are somewhere being assembled. Meanwhile, it hardly requires scientific proof to make the point that highways have far-reaching effects on the natural world.

Highways also have a pervasive influence on national life. Hardly a corner remains unaffected. A mark of the times is the great upwelling of cries from so many different parts of society that since the efforts of highways are universal, monumental and everlasting, their planning requires a wider outlook than the traffic engineer's.

"The major highway is increasingly regarded as a tyrant, unresponsive to public values, disdainful of the people it purports to serve."

So states a provocative little booklet called A COMPREHENSIVE HIGHWAY ROUTE SELECTION METHOD, prepared under the direction of Philadelphia landscape architect Dr. Ian McHarg, of the University of Pennsylvania. It continues:

"The cause can be simply identified. It lies in the inadequacy of the criteria for route selection . . . The objective of an improved method should be to incorporate

social values, resource values, aesthetic values in addition to the normal criteria of physiographic, traffic and engineering considerations. In short, the method should reveal the highway alignment having the maximum social benefit and the minimum social cost."

Some steps *have* been taken. After prodding by Sen. METCALF, Rep. JOHN D. DINGELL of Michigan, and others, the Bureau of Public Roads issued a policy directive to the states in 1964 requiring consultation between highway departments and state wildlife agencies on federally financed projects.

In testimony before Sen. METCALF'S subcommittee, a professional observer said the directive had accomplished some good. But the witness, Richard H. Stroud of the Sport Fishing Institute, added:

"The few beneficial incidents, where significant realignment of highway routes or other modifications beneficial to fish and wildlife resource needs have occurred, have resulted more from the effects of intense pressure exerted on highway departments by an aroused local citizenry than from any rational consideration of injury to the affected resources."

A third major factor, in addition to the effects on the natural world and the effects on our national life, that characterizes highway development comes from what might be called the Great American Assumption: That wherever you want to go, there you should be carried in an automobile.

This assumption holds that if the public is to enjoy its great scenic wonders, it must be able to enjoy them from an automobile seat. This means roads in wild areas—a practice which could destroy the resource the park is trying to exhibit. Extreme cuts and fills—and erosion—attendant on new roads in Great Smoky Mountains National Park is evidence of the danger.

The pressure has also led to a split among the planners of public recreation into what might be called the Car and No Car schools. One school holds that the car and highway are only means of getting to the recreation area; the other hold that the trip *is* the recreation.

This, in turn, has led to an evolution in highway philosophy of great import—"great import" meaning billions of dollars in future spending.

It now is an axiom in Washington that "driving is the nation's most popular form of outdoor recreation." A great deal of federal planning is being influenced by this belief, it appears. *This needs challenging.*

As a consequence, the President's Recreation Advisory Council—not a highway board but a recreation council—asked the Commerce Department to make a study for a national system of scenic roads and parkways. The study should soon be published and available for public discussion.

The study envisions a very big program which might include both federal aid state parkways and national park drives, such as the Washington Country and Cumberland parkways. Speculation is that planners are thinking of a 10- to 20-year program which might cost from $4 billion to $8 billion.

The study is said to be an intelligent one, advancing the concepts of the parkway and the scenic corridor. It also is said to be concerned with the protection of environmental features. Three out of every four miles of suggested parkways and scenic routes would be over existing rights-of-way.

The point to reiterate, however, is that this is a recreation, not a transportation, program. None of the old transportation arguments about necessity and not blocking progress have validity here. The only argument is how best to spend up to $8 billion on outdoor recreation—on roads in the open spaces, or on open space itself? A million dollars buys less than a mile of auto parkway, but it buys a great deal of foot trail.

Obviously this is a critical time to ask questions about highways.

The Interstate construction program will end, as of now, in 1972, along with the Highway Trust Fund which provides the federal share—$42 billion as of now. Temporary taxes now going into the fund are scheduled to die also, but no one seems to believe they will. The odds are, then, that there will be tremendous, multi-billion-dollar pressure to continue a giant highway construction program.

Where will the roads go? What ground will they cover?

The Bureau of Public Roads is now engaged in what it calls the most comprehensive transportation study in history. The result will undoubtedly guide future policy. Thus today is the time to decide the direction of future highway building.

"Therefore, we must make sure," President Johnson told Congress, "that the massive resources we now devote to roads also serve to improve and broaden the quality of American life."

Exactly! And we must make certain that nature is an essential component of the quality of American life.

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[From Audubon Magazine, September–October 1966]

WHAT TO DO BEFORE THE HIGHWAY COMES—PART II

(By William G. Wing)

"The cloverleaf is becoming our national flower."

Montana's Sen. LEE METCALF, who has boldly fought to save America's streams from highway ruination, said it at a recent congressional hearing.

"If we are not careful, we shall leave our children a legacy of billion-dollar roads leading nowhere except to other congested places like those left behind."

General of the Army Omar N. Bradley said it, and the former chairman of the Joint Chiefs of Staff, now chairman of the board of Bulova Watch Co., added,

"We are building ourselves an asphalt treadmill and allowing green areas of our nation to disappear."

Prairie Creek Redwoods State Park . . . Wheeler National Wildlife Refuge . . . the Beaverkill . . . Great Smoky Mountains National Park . . . the Porcupine Mountains of Lake Superior . . . and now Franconia Notch.

Battlegrounds all. Battlegrounds where conservationists have thrown their modest and constantly beleaguered forces into the breach against a new, awesome, seemingly insurmountable foe—the road builders, the all-powerful state highway departments immune to public pressure, the concrete Juggernaut which thrives on destruction of open space.

Only rarely, surprisingly, has the Juggernaut faltered, wavered, bypassed a treasured park or woodland. More often, havoc has reigned in its grinding path, and weary conservationists have retreated to meet still another onslaught.

Is there hope for a change?

Not likely, suggests Utah State University's College of Forest, Range and Wildlife Management in a bulletin on roads and resources, "until there is adequate representation of all interests in the earliest planning stages of highway construction."

This point, this demand, echoes from East to West, wherever the Juggernaut threatens—which is nearly everywhere today in an era of freeways and speedways, thuways and expressways, turnpikes and parkways, and the National System of Interstate and Defense Highways, the biggest public works project in history.

This demand resounds in California, where natural resources have suffered gravely from cloverleaf blight.

When the California Highway Commission resolved to bypass Prairie Creek Redwoods State Park with a four-lane freeway, the California Roadside Council hailed the action as historic. The council called the decision—after nearly three years of nationwide controversy—a tacit admission "that modern transportation is one of a number of factors serving human needs, but not necessarily one to which all others must be subservient."

One California leader, State Sen. Fred S. Farr, has diagnosed the source of his state's woes as a system wherein "the highway engineer too often becomes a policy maker rather than a specialist and consultant." Freeway planners, Sen. Farr concludes, must seek advice from those "who have an understanding of a highway's place in the broader scheme of things and an appreciation of sound conservation principles."

Such criticism underscores the fact that while highway planning was once limited to merely moving traffic from place to place, today's superroads affect so many realms of American life that decisions must be made on values that lie far beyond the traditional scope of civil engineering.

"Civil engineers are expert road construction planners. They are not community planners," said an editorial in the *Columbus* (Ohio) *Citizen-Journal* opposing plans to route a highway through one of the city's natural treasures, the Olentangy River Valley. The newspaper continued:

"This freeway should be part of a broad community plan. It should include the saving of natural beauty as well as the building of a road."

A similar opinion was voiced by John B. Condliffe, senior economist at the Stanford Research Institute in Menio Park, Calif. In a speech before the Sierra Club's Ninth Wilderness Conference in April, 1965, Mr. Condliffe explained why he did not feel impelled to accept the economic arguments of highway engineers, then asserted:

"Nor do I feel ready to allow them to value what the scenery is worth to me and to you. I'm afraid that if they have their way unchecked, there won't be any scenery."

There is a growing chorus of demands, then, to bring other viewpoints into highway planning. Boris Pushkarev, private planner and author of MAN-MADE AMERICA, has suggested that "visually trained professionals" such as landscape architects specialize in the initial choice of routes. San Antonio planner S. B. Zisman has written that a controversy in his Texas city over construction of an expressway through Brackenridge Park "highlights the great issue of our day—where not to build." Land use specialists, he urges, are needed to advise highway builders on the critical question of which areas should be left open.

Most importantly, the viewpoint lacking, and needed—because of the great impact of roads on nature—is that of the naturalist and conservationist who, instead of remaining *outside* fighting a rearguard action, should be directly involved in *inside* highway planning.

A few moves, fortunately, have been made in this direction. The federal Bureau of Public Roads, according to Dr. David Levin, director of its scenic highway program, has created a planning position called an "environmental engineer." New York's highway staff includes a landscape architect who also serves as liaison with the State Conservation Department. Efforts have been made in the California Legislature to include naturalists on the state highway planning staff.

These are signs of change. There are far more signs of the need for urgent action.

New Jersey, by a geographical misfortune, is a natural corridor between the East's burgeoning population centers. It is also the nation's fourth *smallest* state, with only a moderate and dwindling amount of open space. Yet during a public hearing last spring on the route for Interstate 95 through New Jersey, Paul M. VanWegen, president of the regional Stony Brook-Millstone Watershed Association, warned that studies "have projected the need for 40 superhighway lanes across our state in the next few years."

In adjoining New York State, J. Burch McMorran, superintendent of the New York Department of Public Works and one of the nation's most powerful highway officials, agreed the clash between roads and nature will worsen.

"Conflicts, yes," he said, "and there are going to be more and more of them."

He was seated in his spacious Albany office sketching a map of the area involved in a recent and discouraging defeat for New York conservationists.

There were only two possible corridors, he noted, for Interstate 87 to follow through Westchester County, a northern suburb of New York City where woodland and open space are valued highly. In one path lay a nature sanctuary; in the other corridor were two sanctuaries. Supt. McMorran, New York Gov. Nelson A. Rockefeller—and probably a majority of Westchester residents—favored the route which would cause the least damage. They were overruled by the federal Bureau of Public Roads on grounds of cost; Interstate 87 will invade *two* nature preserves.

How then, the commissioner was asked, *can* the need for highways and the need to preserve natural areas be reconciled?

"Compromise," he quickly replied. "There is only one way—compromise."

But at a public hearing in a New Jersey firehouse, a private planning specialist indicated "compromise," instead of being the answer, may be the root of highway troubles.

Philadelphia landscape architect Ian McHarg had been retained by a New Jersey citizens' group to help—successfully—to guide Interstate 95 along the least destructive route. But his most disheartening experience, Dr. McHarg said, was learning how highway departments act on pressure rather than principles. Thus the selection of a highway route becomes a public pushball game, the object of which is to shove the road into someone else's backyard.

Farther south, in Washington, the courtly Federal Highway Administrator took a totally opposite position. Rex M. Whitton spoke of the checks and balances which theoretically guide fair selections of routes. His assistant, the articulate Thomas McGary, counted off ten or more criteria—ranging from concern for conservation and esthetics to respect for religious institutions—that he said must be met before the Bureau of Public Roads approves a state's choice of a route. Mr. Whitton emphasized he sees no need for more rules to protect natural areas.

Yet as Key West, Fla., is far from Kodiak, Alaska, so are the assurances of these Washington officials remote from the conviction of embattled conservationists that the federal-state highway program is, indeed, a very real, very massive Juggernaut smashing through any open areas in or near its path.

An observer listening to Mr. Whitton and Mr. McGary might easily relax in the comfort that wisdom reigns over highway planning. But two current cases keep nagging—nagging that perhaps the Juggernaut is hardly under control.

Franconia Notch in New Hampshire has been part of the American heritage since Nathaniel Hawthorne wrote of the Old Man of the Mountains, the Great Stone Face formed by five separate granite ledges which jut from sheer cliffs 1,200 feet above the valley of the Pemigewasset River. The steep-walled, forest-covered cleft in the White Mountains offers a rare atmosphere of wildness and intimacy, of cascading streams and glacial relics, of summit trails and alpine wildflowers.

The renown of Franconia Notch's beauty brings visitors. Visitors bring traffic. By 1980, according to one engineering estimate, 4,000 vehicles will be crowded into the Notch every hour during the fall color season.

The proposal: to route Interstate 93 *through* Franconia Notch, either in place of, or in addition to, the present two-lane U.S. 3. The question: Can the valley accept four lanes of speedway traffic and really remain Franconia Notch, New Hampshire's greatest natural asset?

Federal highway czar Whitton argues that this is strictly a state affair. Technicalities aside, however, the future of Franconia Notch is of national concern. Indeed, there seems little doubt this would be a national park today had not the state and its citizens taken the initiative to place the Notch under public guardianship 40 years ago. Or to offer a less noble argument, most of the cost of Interstate 93 is being borne by taxpayers *outside* New Hampshire. It would seem they have the right to ask: Which is more in the national interest, to keep Franconia Notch as is, or use it as a high-speed traffic corridor?

Curiously, while Interstate freeways are justified as links in a nationwide transportation and military defense system, the consulting engineer's report which prompted the New Hampshire General Court, the state's legislature, to approve the route through the Notch stressed that more than 80 per cent of present U.S. 3 travelers *stop* in the Franconia Notch State Park area. "Less than 20 per cent desire to go to points beyond . . ."

While this statement has been used as an argument against an alternative route around the Notch, it also seems to belie the need for an Interstate expressway there to facilitate long-distance travel and to speed troops north to the frontier.

For if tourists want to stop and look at the leaves, or photograph the Old Man of the Mountains, an improved scenic highway, not a super-speedway, seems the answer.

Yet who asks these questions in the national interest? Only a handful of groups, including the Appalachian Mountain Club, the Society for the Protection of New Hampshire Forests, the Audubon Society of New Hampshire, garden clubs and women's clubs. This is a classic rearguard fight by conservationists.

It does little to support Highway Administrator Whitton's claim of adequate checks and balances.

The second case in point likewise is of national consequence, yet it too has been called a strictly local matter. The distinction is now academic: Conservationists have lost another round. The heart of Wheeler National Wildlife Refuge, on a Tennessee Valley Authority lake in northern Alabama, *will* be bisected by Interstate 65 on a route demanded by state highway officials.

Although Secretary of the Interior Stewart L. Udall had once insisted that a right-of-way through Wheeler Refuge could *not* be granted at the site sought by road builders, the Interior Department—in a surprise move—has withdrawn its objections. Still undecided is whether Interstate 65 will be elevated on a trestle across the refuge, an important feeding and resting area for Canada geese. The trestle would permit free flow of water and, supposedly, allow birds to fly underneath the highway.

Wildlife biologists, however, although admitting that goose behavior is almost impossible to forecast, have evidence the birds fear elevated structures. In the personal opinion of Wheeler National Wildlife Refuge officials, the elevated super-road will devastate the sanctuary. Yet Federal Highway Administrator Whitton insists the freeway will have no adverse effect on wildlife. The issue at Wheeler, he says, is "wildlife versus people."

But is it?

Wheeler National Wildlife Refuge encompasses 35,000 acres of sinks and sloughs along both sides of the Tennessee River. It is not on the traditional north-south waterfowl flyway, but through intensive management the winter population of Canada geese has been increased from none in 1938 to an average of 50,000 today. Twice that many ducks use the refuge, and 230 other bird species are found there.

The goal is for Wheeler Refuge to become the first of several stepping stones to lead Mississippi Flyway geese to an under-used wintering sanctuary in western Florida. This is a people program. People supported and voted for the Migratory Bird Conservation Act in 1929. People planted corn at Wheeler. People paid taxes and bought duck stamps to develop Wheeler Refuge.

Alabama's highway department and the federal Bureau of Public Roads refused to accept an alternate route through the refuge because of "user cost," a figure obtained by multiplying three factors: the number of vehicles expected to travel the expressway per year, the extra mileage, and an arbitrary figure of nine cents, which represents the cost to a motorist of driving one extra mile.

The user cost is figured to the one-thousandth of a cent. How many costs are considered on the other side of the ledger? None, except the cost of the elevated causeway. There will be no reimbursement for the 70 acres of land to be taken from the refuge. There will be no payment for the decreased value of the refuge. And what of the loss to international migratory waterfowl conservation?

"In other words," commented C. R. Gutermuth, vice-president of the Wildlife Management Institute, at a congressional hearing, "the highway agencies are claiming to be attempting to 'save' money by objecting to the alternate route, while at the same time they are ignoring costs the public would bear by reason of impairment of the wildlife refugee."

Wildlife versus people? Or people versus people—local truckers and motorists versus national taxpayers?

Soon after news of the Interior Department retreat on Wheeler Refuge was released, it was learned that right-of-way for still another Interstate highway has been bought up to the boundary fence of Savannah National Wildlife Refuge in South Carolina and Georgia.

Sometimes, albeit rarely, good sense *can* pierce the fog of specious argument. Conservationists in the Midwest heaved a sigh of relief last summer when Michigan Gov. George Romney vetoed a bill which would have allowed a highway to be built through Porcupine Mountains State Park. The Porcupines lie beside the sapphire-blue of Lake Superior in Michigan's Upper Peninsula, and the 58,000-acre park is an unusually rugged virgin wilderness for the eastern United States, chockablock with wildlife, mountains and mountain lakes, and cascading trout streams. The highway was demanded by local legislators and tourism promoters.

Gov. Romney, in his veto message, emphasized that "for this wilderness area . . . to be further opened to a conventional general access highway would destroy its chief attraction, an attraction which will constantly increase."

Such decisions cannot always be counted on, however, and the concerned citizen must be prepared to fight on the highwayman's ground.

In Dr. McHarg's opinion, the reason his New Jersey group was able to influence the state highway department was because it entered the discussions with a plan. The Bureau of Public Roads' Thomas McGary has repeatedly said "the nature people must be prepared with realistic demands."

Mr. McGary's complaints, indeed suggest that working with "nature people" is difficult "because they just don't seem to understand the world we have to operate in.

"The conservation world," he advises, "is afflicted with lack of professionalism," and he scores both the "vigilante-ism" of some national conservation organizations, and "blabbermouths" who protest at public meetings without valid reasons. "There are two approaches toward gaining an objective," he concluded, "the bomb-thrower versus the member of a responsible political party."

Compared with the usual caricature of a nature lover as a tweedy old lady with binoculars, the label "bomb-thrower" may sound rather extreme. Mr. McGary's point, however, is that you can't play this game without knowing the rules.

What are those rules?

First, you must be aware not only that American highway construction is the biggest public works program in history but that much of the money comes from one source, much of the control comes from another.

Since the presidency of Andrew Jackson, it has been an accepted principle that highway building is a state and local function; the federal government merely collects taxes and distributes money to states for roads with national significance.

This divided responsibility has many practical results. Among others, it creates, in the words of one Washington observer, "one of the world's most beautiful buck-passing systems."

It also means dealing at 50 state capitals with 50 different state highway departments operating on 50 levels of competence and under vastly different systems of organization. It means 50 sets of laws to regulate highway department functions.

As an aide to a U.S. senator commented in the Capitol's marble halls, "the highway lobby is the toughest we have to fight." Then he added:

"Remember, route alignment is done in the states. It's easier to lobby in the states than it is in Washington. There are too many spotlights in Washington—somebody is watching and reporting almost everything we do here. But who watches the state legislatures? That's where the real wheeling and dealing on highways goes on."

What is the highway lobby?

This is the bloc of trade associations and special interest groups representing automobile manufacturers and dealers, automobile clubs, gas and oil producers, truck and bus associations, concrete and asphalt makers, highway construction equipment manufacturers, and road-building contractors, among others. Considering the importance to their states of a share of the annual $4 billion federal highway aid kitty, governors might also be classified as highway lobbyists.

Local control means, too, that the key figure in many highway cases is a relatively obscure official, the district or division engineer who makes the first decisions on a route. Further, it is a phenomenon of highway construction that such early decisions carry great importance, particularly once they are incorporated into actual plans. "As time goes on," one highway aide noted, "it's almost impossible to change them."

The second rule is to enter a case prepared with definite and "realistic" demands and counterproposals.

"We don't care how tough a group is," a federal roads official emphasized, "as long as they can tell us where they stand and what they're after. We can live with people like that." He cited civil rights groups as effective bargainers on highway routes which threaten minority housing.

"But what are we supposed to do," he asked, "when one of the nature boys gets up and recites, 'Woodsman, Spare That Tree'?"

Highways are an engineer's domain, and, as Secretary Udall remarked in a recent conversation, "engineers need guidelines." The Sierra Club has published a booklet of engineering specifications for roads in park areas. For the Interstate 95 case in New Jersey, Dr. McHarg offered a brilliant procedure for determining routes having the least "social cost." It was prepared, he said, in a short time, with little expense and with information available to the public in any state.

Both are models of definite and "realistic" programs.

But no opposition, no alternate plan, can be effective unless brought to bear early in the highway planning process. As one candid official admitted, "By the time of public hearings, it already is too late to make real changes."

How, then, can conservationists enter the highway picture when plans are still fluid?

For federally financed roads—and today most roads are built with at least *some* federal aid—Mr. McGary holds out only one slim ray of hope . . .

In 1963—as a result of pressure applied in Congress by conservationists, by Sen. METCALF and by Rep. JOHN D. DINGELL of Michigan—the Bureau of Public Roads sent to state highway departments a memorandum requiring consultation with their state fish and game departments to clear any highway plans involving federal assistance. Mr. McGary advises private conservation groups to utilize the provisions of this agreement.

"Work with the state conservation departments," he suggests. "See that they know your position on the program and that they are in a good position to represent you with state highway agencies. And see that the conservation department contacts the highway people early. That's vital. Don't let the conservation people wait until the highway department contacts them."

Still practically speaking, this procedure offers little promise. A state resource agency rarely has the political strength to challenge its fellow highway department. Highway departments have muscle—the billions of dollars in road construction funds circulating throughout the country.

By comparison, most state fish and game departments operate on nickels and dimes. Many are geared solely to providing hunting and fishing needs, not to a broad resource conservation program. Few are prepared to argue esthetics or habitat values with highway engineers.

Nonetheless, there is an immediate need for conservationists to inventory vital open space. Much anguish—and many tragic losses—might be avoided if engineers were aware of *which* wild areas are most important, most valued, before they made even the first tentative doodles on their drawing boards. Otherwise, an engineer may not know that a forest or a pond is any more significant than a trash-filled vacant lot.

Needed, too, is a cash value on the intangible worth of natural areas, since road engineers, Dr. McHarg reminds us, unblushingly place dollars and cents figures on such imponderables as "user convenience."

What *is* a fair appraisal for a tumbling brook, a roaring waterfall, an orchid bog, or the last grove of hickories in several counties? The Cook County, Ill., parks department and the National Shade Tree Conference have at least made a start, valuing trees felled in the path of highways at $5 to $6 per square inch of cross section at a certain height.

In the meantime, laws *can* be reformed. National wildlife refuge lands need not be free for the taking by highway builders. The Federal Highway Act can be amended to protect natural areas against federally assisted roads.

A practical suggestion, indeed, comes from the American Society of Planning Officials, which cited a parallel between damage to parks from highways and the relocation of families displaced by federal aid slum clearance. Commented the society's newsletter:

"Unless the federal government extends the same insistence (and probably the same federal aid) to the relocation of parks massacred by highways, we can expect that the high-handed expropriation of park land will continue."

It was Interior Secretary Udall who advised conservationists to approach the highway issue positively. "You don't just ask the negative question, 'How can we stop roads?' " he emphasized. "You ask, 'How can we use a road program so that it will not only move people in cars but so the roads will make a contribution to the total environment?' You use roads to add a new element to conservation."

Wider rights-of-way might be acquired, he suggested, to add hiking, cycling or horseback trails.

But such a positive approach would require that conservationists participate in highway planning from the start, that oft-repeated theme.

As Frank Gregg, vice-president of the Conservation Foundation, stresses, highway planning can no longer remain isolated as "the unilateral responsibility of agencies biased toward construction." Highways must be considered in relation to our total environmental and resource needs.

Only then can the concrete Juggernaut be controlled.

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## WELCOME TO PRESIDENT MARCOS

Mr. FONG. Mr. President, our country is very privileged to host for the next 2 weeks the President of the Republic of the Philippines, the Honorable Ferdinand E. Marcos. President Marcos and his visiting party, which includes his gracious and beautiful wife, arrived in the United States on Monday, September 12, via my home State of Hawaii, and flew into Washington yesterday.

A warm, cordial welcome for President and Mrs. Marcos is planned by President Johnson. This is indeed fitting, for this young, handsome couple represents an Asian country with which we have had a long and amicable relationship.

The friendship between the United States and the Philippines had its beginnings in the late 19th century when our country helped to end Spanish domination of the Philippine Islands. It matured over the years, as Americans worked with Filipino leaders to ensure the complete independence of the islands from any other foreign nation. Then, it blossomed into full partnership when the Republic of the Philippines was born on July 4, 1946.

Filipino-American ties have continued to be close during the last 20 years.

As Americans and Filipinos stood shoulder to shoulder in the fight against the Japanese in World War II, so did Philippine troops fight with American soldiers and those of other nations with the United Nations in Korea.

Recently, the Philippines dispatched combat engineers and security troops to South Vietnam. It will send a total of 2,000 of these troops; thus becoming the fourth foreign nation—joining the United States, Australia, and South Korea—to commit a sizable force to help fight the Vietcong and North Vietnamese aggression.

Philippine commitment of combat troops in South Vietnam reflects the deeper ties that bind our two countries together—those of ideology, political form of government, and economics.

We share an abhorrence of military aggression. Accordingly, the Philippines and the United States are strongly anti-Communist, and containment of Communist aggression is a fundamental policy of our countries.

A world of peace, good health, and prosperity is a goal toward which our countries are striving. Thus, both the United States and the Philippines actively support the United Nations. In fact, our countries are charter members of this venerable organization.

Our common outlook is also noted in the similarity of our form of government. The Philippine and United States constitutions provide for three separate branches of government and ensure the people of their rights to life, liberty, and justice. As the United States is recognized as being the first democratic state in the Western Hemisphere, the Republic of the Philippines has the distinction of being the first democracy in Asia.

Economically, we cooperate significantly with each other. Under the United States-Philippine Trade Agreement, commodities from both countries receive preferential tariff treatment. As a result, the volume of trade between the two countries is very high. In 1964, the United States imported goods totaling $737 million from the Philippines, while the latter imported U.S. goods worth $780 million during the same period.

As between the closest friends, however, the relationship between the United States and the Philippines has not always been smooth and placid. Minor irritations have occasionally arisen. Nonetheless, the underlying mutuality of outlook on the important matters has carried both nations through such misunderstandings with the basic fabric of friendship intact.

We are thus delighted to see the growing economic and political influence of the Philippines in Asian and world affairs. The Asian Development Bank, whose purpose is to foster economic growth and cooperation in the region of the Far East and Asia, will be located in Manila. Thirty-two countries comprise the membership of this organization.

The Philippines have taken a leading role in attempting to calm the hostile situation in southeast Asia. It has recently established diplomatic relations with Malaysia and Indonesia and is working toward a more stable political climate in that geographic region.

The Philippines is also providing leadership in the field of health and sanitation. Under an aid program called Operation Brotherhood, Filipino doctors and nurses are operating hospitals and other experts are teaching better farming, better baby care, and sanitation throughout Laos. Laos has less than a dozen doctors of its own, so Operation Brotherhood's Filipinos provide the backbone of what medical service is available to the almost 3 million Laotians.

But the leadership of the Philippines is only as strong as its own national situation. Thus, we are particularly pleased that the sixth President of the Republic of the Philippines has demonstrated insight in the problems plaguing his country and has acted in an attempt to solve them.

Since taking office in January, President Marcos has begun to correct the problems of finances, smuggling and the black market, land reform, trade deficit, and administrative waste in spending. His efforts have stirred optimism among his people, and respect among world leaders.

Consequently, we view the visit of President and Mrs. Marcos as one arising out of the friendship between our countries and the respect and admiration that we hold for the role of the Philippines in Asia today. We hail the Philippine President and his First Lady for their fine service to their people.

Mr. President, I, especially, wish to extend a warm aloha to President and Mrs. Marcos. We in Hawaii feel honored that they selected our State as the resting spot for their transpacific flights to and from the U.S. mainland.

Special celebrations sponsored by the Filipino community will be held in honor of President and Mrs. Marcos upon their return to Hawaii. In addition, the University of Hawaii will confer an honorary degree of doctor of laws on President Marcos.

Within the Filipino community of approximately 70,000 persons in Hawaii, few other leaders from the Philippines could generate as much excitement or inspire as much enthusiasm as the sixth President of the Republic of the Philippines. For one thing, President Marcos is a native Ilocano as is an overwhelming majority of the Filipinos in Hawaii.

Second, President Marcos had to overcome great adversities during his lifetime before arriving at Malacanang Palace. As a young man, he was accused of the murder of his father's political rival. Then, World War II disrupted a promising career. Also, intraparty maneuvering in 1965 prevented the then Senator Marcos from obtaining the Liberal Party endorsement for the presidential nomination.

However, President Marcos overcame these adversities and emerged even stronger than when confronted by them. He achieved fame as a brilliant lawyer after he successfully defended himself on appeal and won a reversal on his conviction for murder. He became the most decorated Filipino soldier because of his exploits as a guerrilla leader against the Japanese. He was elected to the Presidency after turning to the Nationalist Party and winning its endorsement for that office.

Third, President Marcos is married to a beautiful woman who is also talented, charming, and intelligent. They have three attractive children. The First Family is an ideal family whose appeal is universal.

In short, President and Mrs. Marcos personify the beautiful country that many of the Filipinos in Hawaii had not seen in decades. These Filipinos are happy to have this opportunity to reminisce about the land of their ancestors and are proud to give the rest of the people of Hawaii and those on the mainland a glimpse of the charm and culture of the Philippines.

As senior Senator from the State of Hawaii, I am delighted to represent the Filipino community and to bid in their behalf a fond "mabuhay" to President and Mrs. Marcos to the Nation's Capital. We wish you good luck and success in your mission here to the United States and in the administration of your policies and programs for your great country. "Naimbag a visita yo"—May your visit be happy and pleasant.

In conclusion, I would like to bring to the attention of my distinguished colleagues some recent articles on President and Mrs. Marcos and the Philippines. They are timely and informative, and would provide excellent reading in preparation for President Marcos' address to Congress tomorrow. I ask unanimous consent that they be printed in the RECORD, as follows:

"Philippines: A Nation in Transition" by John Griffin, the Honolulu Advertiser, September 11, 1966;

"The Philippines: Freedom's Pacific Frontier," by Robert De Roos, National Geographic, September 1966;

"A Friend from Asia" and "The First Lady," taken from Ferdinand E. Marcos, President, Republic of the Philippines;

"Half-Year Mark," by Quijano de Manila, Philippines Free Press, August 13, 1966;

"Our Asian Ally," by Roscoe Drummond, Washington Post, September 11, 1966;

"Visitor From Manila," lead editorial, Washington Post, September 14, 1966;

"Busy Beauty in the Barrios," Life, Asia edition, August 8, 1966; and

"Imelda Marcos: The First Lady of Asia," by Vera Glaser, Parade, September 11, 1966.

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

[From the Honolulu Advertiser, Sept. 11, 1966]

PHILIPPINES: A NATION IN TRANSITION

(By John Griffin)

The Philippines is a nation caught between cultures.

President Ferdinand Marcos, who arrives here tomorrow at the beginning of a U.S. state visit, might disagree with the word "caught."

Recently in Manila he pictured himself to me as a man who had managed to become "oriented to the East and still identified with the West without schizophrenic results."

Yet whatever the outstanding talents of the nation's leader, the Philippines is a land in troubled transition. Both at home and in foreign affairs it faces adjustments that call for cultural change.

President Marcos, who took office eight months ago, is the man who will preside over this vital period. His credentials are impressive, as the official biography on this page outlines.

Yet also impressive is the weight of history and misguided government that faces anyone seeking to promote ordered change in the Philippines.

Philippine-American relations, the theme of the Marcos visit, are involved and affected by this.

It is better, however, to talk first about the internal situation in the Philippines. For that is where the change must come.

This is not to say Americans can't be more understanding. Even more than with England, our relations with the Philippines have suffered by the fact we both speak English and seem to have many similar manners and institutions.

It is important that the Philippines, a former American colony, has the best working Western-style democracy in Asia. But it is even more important to recognize that the four decades of American influence are just one layer of a Philippine culture that also includes over 350 years of Spanish rule and continuing Malay village traditions.

KINSHIP CULTURE

"If you want to understand the country," a friend said recently in Manila. "I would suggest starting with two things—the kinship system, and utang na loob" (debt of gratitude or obligation).

Much more than in the U.S., the basic unit of loyalty and obligation for the Filipino is this group made up not only of blood family but also of adopted family, a circle of "compadres" established through marriage or long friendship.

A man is bound to provide help for needy members of his group, be he in business or government. It is far more disgraceful, for example, to let down a family member by not providing a government job or contract than it is to cheat the government.

"The family system has its social strengths," said a Filipino. "But too many people see the government or a business as a family employment agency. We can't go on like that if we hope to make progress."

"Utang na loob" refers to a situation where a man without being asked does a favor for another man, who then has the obligation to repay.

Two such cultural characteristics naturally don't explain everything in a society where graft and corruption have become tragically endemic, where rich exploit poor then callously display their wealth, where crime is measured in syndicates that extend into Congress and government departments.

But they do say something about the deeper problems of a nation seeking to transform itself to a modern society from a value system suited for isolated rural peasant villages.

A FAMILY VISIT

Furthermore, it may be that these two influences—the family system and the debt of obligation—extend into Philippine-American relations.

The Marcos visit is in the tradition of Philippine presidents visiting the U.S. In some ways, it is very much a family affair for Filipinos.

Americans may be somewhat taken aback by the blunt wording in the editorial reprinted on this page from the Philippine Free Press, the nation's most respected magazine. It talks of Marcos going back to collect U.S. aid in return for sending Filipino troops to Viet Nam.

After all we have given the Philippines some $1 billion in aid grants since 1946 plus $500 million in military aid. In addition we have provided over $1 billion in veterans' payments and are still paying $38 million a year to some 85,000 Filipino war veterans. These figures do not include another $678 million paid in war damages.

Whether any deal was made over Viet Nam troops is not the question here. (U.S. officials deny any direct arrangement.)

The point is that many Filipinos see the U.S. in the utang na loob situation of owing the Philippines a debt of obligation.

Furthermore, this debt is not just over the Viet Nam troops. It goes back to the fact Filipinos stood by the U.S. in World War II without being asked; MacArthur's return was not enough. Some would even date our obligation back to the day we stepped ashore in 1898.

BROTHER IN NEED

Woven all through this is the special relations between the U.S. and its former colony—a family relationship, if you will, where Americans are the prosperous brother and Filipinos the brother in need.

Many Filipinos see nothing especially wrong in this; it is their way of life and our obligation.

Many other Filipinos may not like the idea of such a continuing relationship, although they may be caught in the dynamics of the American influence on their country and personally friendly to Americans.

They see the Philippine future in Asia, not burdened with a special relationship that may bring them aid but also carried the stigma of being considered, as Filipinos put it, "little brown brothers to Americans."

It is against this background that President Marcos comes to the U.S.

No one has been more honestly blunt about the problems. His justly-famous inaugural address last December 30 said in part:

"The Filipino, it seems, has lost his soul, his dignity and his courage.

"We have come upon a phase of our history when ideals are only a veneer for greed and power in public and private affairs, when devotion to duty and dedication to a public trust are to be weighed at all times against private advantages and personal gain, and when loyalties can be traded in the open market. . . .

"Our government is gripped in the iron hand of venality, its treasury is barren, its resources are wasted, its civil service is slothful and indifferent, its armed forces demoralized and its councils sterile."

Everyone agrees the situation is much better than a year ago when pre-election uncertainty shrouded everything. The honest business community likes Marcos.

How good—or how great—a president Ferdinand Marcos will be in meeting these problems is still being judged.

Smuggling, which was costing the nation $350 million a year, has been cut enough to impress everyone; the President estimates by 40 percent.

He has taken other less dramatic but important steps aimed at eliminating corruption, boosting the troubled economy, revamping a government larded with political jobs, and trying to win support for clean government.

CRITIC'S VIEW

Critics feel he has missed his chance to make a needed big initial impact with solid but dramatic moves to impress a citizenry grown cynical of promised reforms. "The history of Philippine presidents is that they get worse as they go along," said one older Filipino. "You have to move before the octopus of the system catches you."

Defenders say the point about Marcos is that he is different, that he is approaching the massive job as he has everything else, with an ordered plan.

Most veteran observers are reserving judgment, although they see signs of hope.

Certainly it is agreed that if anybody has the drive, political skill and knowledge to reform the Philippines it is Marcos. As President Johnson is considered an American political master, so Marcos must be judged the best Filipino politician in many years.

But the job is not easy, for all involves going beyond the difficult initial cleanup into the needed cultural transition.

The family system, for example, is slowly changing, as it must. But can the best of its social security aspects be kept while transferring the loyalty to kinship group to loyalty to the public good?

Beyond that there is the question of relations with the U.S. and the Philippines' place in Asia.

This is bound to change as a younger generation—a generation with no close ties to the U.S.—comes of political age. The controversial economic agreement between the two countries expires in 1974.

TRANSITION LEADER

Marcos, the war hero with a Bataan-bred kinship to Americans, may well play the role of transition president between two eras.

In the meantime, the President has offered advice to both Americans and Filipinos in judging each other.

To me he said, "Americans tend to judge us by what you have been able to accomplish in your country over two centuries.

"We ask only that you judge us in relation to the accomplishments of the Spanish here for three centuries and Americans from 1902 to 1946. By that standard, tell us if we have not done better in 20 years of independence."

To the Philippine Congress, he said of the United States:

"We are convinced that this great nation would want nothing better than to see our nation prosper in dignity and freedom."

It is, indeed, the only realistic long-range goal for the U.S. toward the Philippines.

But beyond that there is and should be something else. Maybe it was summed up by an American friend long in Manila who ticked off many criticisms:

"And yet when you have said all the bad things it still comes out that these people are some of the finest and best friends a man can have. In many ways, I, too, think they are my brothers . . . I don't think Americans will ever have the same kind of relationship with anyone in Asia again."

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[From the National Geographic, September 1966]

THE PHILIPPINES: FREEDOM'S PACIFIC FRONTIER

(By Robert de Roos)

Though I have never lived in the Philippines, I sometimes feel I grew up there. My parents were missionaries on Luzon shortly after this century began. As a child I was entranced by their tales of a ruggedly beautiful land, of rice terraces like green steps to the sky, of people who lived in houses on stilts, of Igorot men wearing nothing but G-strings.

Later, with millions of Americans, I admired the courage of the Filipinos as they fought beside us and stood firm through the terrible years of Japanese occupation. And I followed with hope and fascination their postwar plunge as a new free nation in Asia.

REPUBLIC BORN ON THE FOURTH OF JULY

In two visits totaling two and a half months and 3,000 miles of travel, I found the reality far more exciting than I could have imagined. I learned that the young Republic of the Philippines—founded July 4, 1946—is a land of grace and many problems. It is a turbulent country, new to the ways of independence after four centuries of occupation by foreign rulers—Spain, the United States, and Japan. It is a country imbued with America's ideals of freedom, though corruption and poverty still keep that idealism from flowering fully.

Far more than wars and occupation, geography has fragmented the Republic of the

Philippines. Its 32,600,000 people live on a galaxy of islands strung out north and south for 1,150 miles between the Pacific Ocean and the South China Sea (maps, pages 312–13).

No one knows how many islands there are; the republic itself says simply "more than 7,100." New islands appear from time to time as volcanoes thrust their smoking cones above the sea. And, after a few years of pounding by the waves, some of these new islands vanish.

The eruption of Taal Volcano on September 28, 1965, emphasized again the influence of titanic natural forces on life in the Philippines. The volcano, rising as an island in Lake Taal, 40 miles south of Manila, roared for three days and blasted out untold tons of mud and glowing pumice. Fields and houses were buried under siltlike ash. Two hundred people lost their lives, and thousands of homeless on the island and around the lake were taken to relief centers.

Six weeks after the eruption, I went out to visit Taal Volcano with Dr. Arturo Alcaraz, chief volcanologist of the Philippines, and Dr. James G. Moore of the U.S. Geological Survey, a volcano expert sent by President Johnson to investigate the eruption. We drove along one of my favorite roads, a modern highway that seems to wander rather than rush between rows of tidy homes. The grass was a glossy green, with colorful explosions of poinsettias, hibiscus, plumed banana plants, and coconut palms. On the road we met buses that looked like parade floats, their rooftops laden with gaily colored vegetables and fruits.

VOLCANO CREATED "HAILSTONES" OF CLAY

"The eruption was not unexpected," said Dr. Alcaraz, "because the temperature of the lake had been rising. The people on the island were warned, and there was time for partial evacuation."

"Is it possible to predict exactly when a volcano will erupt?" I asked.

"No, not exactly," replied Dr. Moore. "It's like a balloon. You can say that a balloon will break when it is blown up, but it's difficult to tell exactly when."

Near the lakeside village of San Nicolas, Dr. Alcaraz stopped the car, and we walked to a 10-foot bank at the roadside.

"This is material laid down by an earlier eruption of Taal," he said.

With his knife he dug out several small hard clay balls, and Dr. Moore explained that they were accretionary lapilli—little mud marbles built up in the "explosion clouds" caused by the volcano.

"They bounced around in the turbulent upper air and built up, layer by layer, until they were heavy enough to fall," he said.

"It's hard to say when these fell—maybe 50 years ago, maybe 500. But similar ones formed during the recent eruption."

At the village we met a Filipino seismologist named Conrado Andal, who agreed to take us to the volcano in a 15-foot powerboat. As we got under way, I noticed bits of black pumice floating on the choppy water.

Before us loomed the island. From time to time portions of the cliffs broke off, sending up plumes of ash; from a distance it looked like smoke. A deep layer of dried mud, now much seamed by rain, covered the southern side of the island.

Mr. Andal recalled the nightmarish morning when Taal began to erupt. He had been on duty at the island's seismograph station.

"About two in the morning there was an explosion, with fire and a lot of noise," he said. "People were calling and screaming in the dark. My wife wanted to get away, but I wanted to watch a little longer. The eruptions were not very strong at first.

"About half an hour later, a deafening blast shook the island. It was time to leave."

Conrado Andal jammed 20 women and children into the same small boat we were using. They started north, away from the volcano's eruption center. They had traveled about two and a half miles when another explosion split the night.

"There was a big volume of gas and steam," Mr. Andal said. "That was when the storm and electrical display started. It was just like Roman candles—flashes of red and yellow."

The eruption, possibly triggered by seepage of water from the lake into the depths of the earth, created its own thunderstorm. Billions of gallons of water, steam, gas, and mud churned into the air.

Mr. Andal remembered shouting to boatloads of refugees from the island to head north.

"I was afraid of the big waves that would come," he told us. His warnings could not be heard in the noisy night. Many of the volcano's victims drowned when seismic waves engulfed their overloaded boats.

On September 30, 1965, Taal spewed up a black cinder cone 1,000 feet in diameter. It formed a horseshoe islet. Wisps of steam still escaped from the cone near the water line as we climbed its gently sloping side and had a picnic lunch on the rim.

"BOONDOCKS" BORROWED FROM TAGALOG

Taal's latest outburst is only one of many manifestations of nature's ruggedness in the Philippines. High mountain ranges and dense forest isolate parts of the islands. Mindoro Island remains largely unmapped. The east-central coast of Luzon, the chief island, is an almost unknown land peopled by nomadic hunters. Luzon's *bundok*, or mountain, country, has become famous as "the boondocks"—military slang for just about as far from civilization as a person can get.

Less than 60 miles northwest of Manila, near the gorges of the Maronut River, I found myself in a primitive world. I visited a village of Aetas, the Negritos—"little blacks"—who hunt with bow and arrow. They have barely entered the age of agriculture.

The first Aeta I saw, a naked little boy, ran as fast as he could to spread the word that strangers were near. In the village a collection of low, leaf-covered shacks on either side of the jeep road—I counted four women in ragged shifts, 14 naked children, and a diminutive man wearing a dark-blue G-string. That was all, except for two hogs, two chickens, and a desultory dog. The other men of the village were out clearing the forest for future fields of rice and *camote*, a kind of sweet potato.

My interpreter handed out cigarettes to all except the babes in arms. The Aetas put the lighted ends in their mouths—and they smoked that way with seeming relish.

FLOWERS BRIGHTEN A PRIMITIVE LIFE

There was a striking lack of "things" in the village: no shoes, no towels, no stoves, no radios, no guns—none of the trappings of civilization. Some of the huts had a store of logs to provide smoky heat during the cool nights.

The only tools I saw were a handmade machete—fashioned from a file—a hammer, and a primitive anvil. Their owner, Juan de la Cruz—the Philippine equivalent of "John Smith"—hammered out an arrowhead for for me, using a nail as raw material. He produced an object of precise symmetry and beauty. It took him about an hour.

There in that possessionless village I saw two little flower gardens, containing perhaps ten plants. One, no more than two inches high, was ringed by a tiny palisade of wood chips. The thought of those flowers stayed with me. In that hamlet, so bereft of material things, someone needed a splash of color against the black, damp soil for the good of his soul.

As among the Aetas, wherever I went in the Philippines hospitable people greeted me.

On the first of my two visits, however, I started with a misconception. As my Philippine Air Lines jet nosed downward after the long night passage across the Pacific, I looked on a green and watery land.

Nowhere was there motion. I made a note: "We arrived drowsy in a drowsy land."

An hour later I was being buffeted by Manila's traffic, as undrowsy and as menacing as any I had ever encountered. It is more than traffic. It is a kind of good-natured battle: cars versus "jeepneys" (World War II jeeps turned into agile jitney buses), jeepneys versus trucks, trucks versus *calesas* (high-wheeled, horse-drawn gigs), and all mechanical things against the nimble pedestrian.

I found downtown Manila a hopping, skipping gallopade, danced to the hysterical melody of a thousand horns. "It's like this every day," my taxi driver said happily.

Philippine jeepneys blaze with circus-wagon paint jobs, chrome, arched tops, and rakish fenders. Drivers splash affectionate names as well as paint on their chargers: I Love You Truly, Love Hunter, One More Chance, Morning Star.

RANKS OF CROSSES MARK WAR'S COST

Manila, astride the placid Pasig River, looks less like an Asian metropolis than an American city. American corporate and brand names blink from neon signs.

The Spanish influence lingers on in walled gardens, central plazas, grilled windows, and heavy colonial churches. But this does not make Manila a beautiful city. It has an unfinished look, and that is no wonder: Manila took the worst pounding of any capital in the world during World War II, with the possible exception of Warsaw. It was left four-fifths demolished.

Rain fell quietly when I visited the United States military cemetery at Fort William McKinley, just outside Manila. The flags of the United States and the Philippines hung damply from tall staffs. Stark white markers—17,180 of them—march across the green grass.

I read the names of a sergeant from Texas, a merchant seaman from South Dakota, a Philippine Scout from Batangas. Many times I saw only these words: "Here rests in honored glory a comrade in arms known only to God."

Two stone arcades, curved like supplicating arms, bear the names of 36,279 men of United States fighting units who lie in unknown graves. Mosaic maps in shining colors reminded me of the places where brave men gave their lives for liberty: Bataan, Leyte Gulf, the Coral Sea, Cebu. . . .

The war left all the Philippines a desolation. A million men and women died—thousands in prison camps, other thousands in guerrilla forays in the hills. Hundreds of thousands saw their homes destroyed.

The scars of war remain. Gaunt skeletons of buildings still stand in parts of Manila. Intramuros, the venerable walled city that was once all of Manila, was almost leveled during the liberation of the Philippines.

Yet I found it a fascinating place. It spoke to me of the days when Spanish captains-general ruled the land. It spoke of treasure-laden Manila galleons standing out to sea from Intramuros for the stormy, scurvy-ridden voyage across the Pacific to Acapulco.

A few years ago Intramuros contained an unsightly and unsanitary morass of squatters' shacks incongruously scattered among modern office buildings, the stone bulk of San Agustin Church, and the ruins of Fort Santiago. Mayor Antonio J. Villegas took drastic action to remove this blight on the city. He sent bulldozers crashing into the area, reducing the shacks to kindling.

Manila is desperately overcrowded. Before the war, it held about 625,000 people. Today, the city proper counts 1,339,000, and the area more than 2,500,000.

One answer to the housing shortage can be found at Makati, a planned community adjoining Manila. Seventeen years ago Makati comprised 3,000 acres of marginal farmland—a place of swamps, snakes, rice fields, and tangled grasses. Today it is a model of homes, parks, and commercial centers.

Forbes Park, the executive section of Makati, is as fine a residential area as any on the globe. It is called "the Philippines' richest barrio" (as the smallest political districts are known). But Makati is not for the rich alone. Dislocated squatters, including some from Intramuros, bought lots at low cost, with easy repayment. The subdivision now returns 12 million pesos ($3,090,000) annually in taxes. The squatters have become productive, tax-paying citizens.

NATION CHANGES SLOWLY

Great areas of the Philippines call out for similar solutions. But progress comes slowly. There is not enough money to erect needed buildings, string power lines, provide water, and establish the other supporting services.

After a period of haphazard building, Manila today watches handsome new buildings change its skyline. I visited the elegant Philippine American Life Insurance building, a louvered black structure rising from a gray-white marble first floor. In a patio I saw a magic garden where water lilies, palms, and ferns grow near a cooling fountain. A congress of red dragonflies, buzzing like tiny helicopters, hovered over the water lilies.

Everywhere the trees of Manila are splendid: magnificent star apples with dark-green glossy leaves and shining flowers; the curious kalachuchis with trunks like melting candles. On a Sunday afternoon in the Luneta, I found that great green park polka-dotted with balloons and colored parasols. Ladies promenaded in their prettiest summer dresses. Children frolicked around the tall monument honoring José Rizal, the martyred Philippine hero executed by the Spanish in 1896.

SPANISH PALACE HOUSED U.S. GENERALS

A short taxi ride away, rambling, gleaming white Malacañang stands amid acacia trees on the banks of the Pasig River. Before Malacañang became the presidential residence, it regally housed Spanish and then American governors. The wrought-iron fence that encloses its grounds bore until recently the elaborate coat of arms of Spain.

A Philippines Constabulary sergeant, in stiffly pressed khaki, let me peer into the room where Gen. Douglas MacArthur worked when he was adviser to the Philippine Commonwealth's first President, beloved Manuel Quezon. The sergeant next opened the door of a small staff office used between 1935 and 1939 by a little-known lieutenant colonel—Dwight D. Eisenhower.

The American occupation of the Philippines was a result of the Spanish-American War, which began with the sinking of the battleship *Maine* in the harbor of Havana, Cuba. During the war, the United States sent Commodore George Dewey into Manila Bay on May 1, 1898, to destroy the Spanish fleet. The Spanish thereafter gave up the city with only token resistance.

At war's end Spain ceded the Philippines, Guam, and Puerto Rico to the United States, receiving $20,000,000 in compensation. The cession caused a dilemma. Filipino patriots, who had risen in arms against their Spanish rulers in 1896, wanted the Americans to go home when the shooting stopped. They revolted when the United States, fearing that Germany or Japan might take over the strategic archipelago, decided to stay.

President William McKinley sent troops to suppress the uprising and decreed that the Philippines should remain under the United States flag until the Filipinos were ready for self-government. The United States promised independence when that day was reached—a pledge redeemed in 1946.

William Howard Taft, later to become the 27th President of the United States, was appointed Civil Governor of the Philippines in 1901. Energetically improving the islands' economy, roads, and schools during his two-and-a-half-year term, Taft won the Filipinos' respect and lasting affection.*

During the Taft years, thousands of idealistic teachers, engineers, hygiene experts, and administrators went to the Philippines to help convert the former colony to a republic.

Col. Jaime C. Velasquez, a West Point graduate who is now a development company official, remembers it well.

"I am part of the last age group to benefit directly from American teaching," he told me. "The wonderful schoolteachers landed right after Dewey, and they came into our communities and taught us the things we needed to know. They taught us modern rules of sanitation. They taught us English."

Said a Filipino graduate of Harvard, now a prominent Manila businessman: "Under the Americans, we had the very fundamental things: the freedom to inquire, the freedom to move, the freedom to create, the freedom to complain. That gave us a spirit of curiosity, a restlessness of spirit, a feeling of ebullience. This is finding expression today in the younger men who are moving into business and government leadership."

ENGLISH LEADS 80-ODD TONGUES

Perhaps the greatest boon left by the United States was the English language. During the American occupation it was the language of instruction. Today it has become the most common tongue in a land where more than 80 recognized dialects are spoken.

The chief dialects—Ilocano, Bikol, Cebuano, and Tagalog—are of Malay origin. Pilipino, or Tagalog, prevails as the "official" language, although only about six million Filipinos speak it.

Malays predominate in the island chain. The modern Filipinos are best described as a mixture of peoples—a combination of Malay, Spanish, English, American, and Chinese immigrants.

The Chinese, now 400,000 strong throughout the islands, have always held a special, uncomfortable position. When the Spanish first occupied Manila in 1571, some 150 Chinese lived there. Chinese trading junks had plied Philippine waters for centuries.

The Spanish mistrusted the non-Christian Orientals, but needed their skills and trading ties with China. The Chinese population grew rapidly, restricted to a special district outside the walls of Manila but within easy reach of its guns.

From time to time the nervous Spanish swarmed out of Intramuros to kill Chinese. In 1603, some 23,000 were massacred, almost ending the profitable Chinese trade that brought goods for the galleon fleets.

Today the Chinese are still subject to discriminatory laws. One alien law—in the Philippines "alien" means mainly those Chinese who are not citizens—forbids them to enter retail trade. But the Chinese still dominate that trade, have a large hand in the copra business, and generally control the rice and corn markets.

FILIPINA WIVES OWN SARI-SARI STORES

Some Chinese comply with the law banning them from retail trade by taking Filipina wives and putting businesses in their names. They operate thousands of *sari-sari* stores—little stands that carry small inventories of staple food, stewing supplies, fruit, soft drinks, and so on. Many have expanded into full-fledged supermarkets and other stores.

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*Taft contributed two articles on the Philippines to National Geographic, published in August, 1905, and February, 1908.

The Chinese are not harmed, but they are harassed from time to time. Mayor Villegas earlier this year ruled that shops in Manila's Chinatown must replace signs in Chinese with signs either in English or in Tagalog.

From the melting pot of races in the Philippines, a questing people has emerged. Tempered by struggle, imbued with tenets of freedom, they are seeking and finding—a national identity. In 1965 they chose 48-year-old Ferdinand Marcos as sixth President of the country.

"President Marcos must make up his mind very early about some very basic things," Dr. Leonides S. Virata, president of the Philippine Chamber of Industries, told me.

"Smuggling, which has been a national disgrace, is now a national calamity. The country is being strangled by corruption and smuggling.

"An alarming amount of money is involved from 300 million to 500 million dollars a year, more than a billion pesos. This is money that should go to lubricate the gears of the economy. Instead it is being siphoned away by illegal trade: actual smuggling, plus 'technical smuggling' on the docks—lowered or forgotten payments of duties arranged by bribery—and pilferage on a vast scale."

"NOT ONE HERO ALONE DO I ASK . . ."

President Marcos is well aware of the state of his nation. In his inaugural address he stated the facts baldly:

"The Filipino, it seems, has lost his soul, his dignity, and his courage. Our people have come to a point of despair. We have ceased to value order. . . . Our government is gripped in the iron hand of venality, its treasury is barren, its resources are wasted, its civil service is slothful and indifferent, its armed forces demoralized and its councils sterile."

To rally his people, President Marcos made a stirring appeal: "Not one hero alone do I ask from you, but many—nay, all."

The Republic of the Philippines has been in critical condition every day of its life.

"The republic was born at the worst possible time," said a Philippines senator. "The country was in ruins after the Japanese occupation. The farm animals had been eaten. There was no seed. There was no machinery for industry. Most of the schools and libraries had been destroyed. Public records were lost.

"Under the best conditions it takes a certain time to forge a democratic nation. Yet many are disappointed that the Philippines—starting at zero—has not achieved its goals in two short decades."

There have been anti-American demonstrations in Manila. But when I called on President Marcos, he said, "There is a big reservoir of good will established by our long partnership in government with the United States. That association was culminated by our common stand at Bataan and Corregidor and later. We are too close to the last war to forget. Most of our people are temperamentally committed to democracy and friendly relations with the United States."

But the Philippines does not regard itself as a branch office of the United States.

"Our role is not to advance the cause of Western democracy in Asia or be the outpost for anybody or anything in Asia," declared former Vice President Emmanuel Pelaez. "Our role is simply to be ourselves."

Gen. Carlos P. Romulo, former Ambassador to the United Nations and the best-known Filipino abroad, now is Secretary of Education.

"The outstanding fact about the Philippines," the small, surprisingly youthful-looking statesman said to me when I visited him, "is that we have had six national elections since independence. And after an election there is no liquidation of candidates. No one is exiled. The result is accepted by

all. That is what I call a maturing democracy."

FILIPINO PRESS: EMBARRASSING BUT FREE

Another mark of Philippine democracy is a free press. "There is not the slightest censorship," General Romulo told me. "Sometimes our press is embarrassing, but it is very free."

Democratic institutions and a free press are legacies of the United States occupation. I say other aspects of that heritage: elections at the barrio level, a sincere belief in the freedoms of men, and a raging desire for education.

The University of the Philippines occupies new buildings in Quezon City, the official capital of the Philippines, just east of Manila.

"We have 17,500 students from all over Asia," General Romulo said. "This university is the anchor of democratic faith in this area."

He urged me to visit the International Rice Research Institute adjacent to the University's College of Agriculture near Los Baños. Although the institute, a joint effort by the Ford and Rockefeller Foundations, did not begin its work until 1962, it has already shown results.

RESEARCH REDESIGNS THE RICE PLANT

"Perhaps the biggest step so far is the change we have made in the architecture of the rice plant," ventured Dr. Robert F. Chandler, Jr., director of the institute.

"In three and a half years we have reduced its height from more than five feet to little more than three. The object is to produce a plant which will not bend or break in the wind and monsoon rain—and still will yield well."

The institute has collected 10,000 varieties of rice from all over the world. Electrified fences guard the experimental plots against rats, and "bird boys" wander the fields to keep off feathered raiders.

The Filipinos' thirst for education is unquenchable—but some students are being shortchanged. Educators see danger in the commercially run schools that call themselves universities. "What we really need," they say, "are vocational schools."

I discussed this with Governor Benigno S. Aquino, Jr., of Tarlac, a province of central Luzon. At 32, he is one of the brightest lights in the Philippines.

We stood in a room where he charts the progress and problems of his province. He pointed to a diagram. "Here is where the trouble is," he said. "The school dropouts start at the fourth grade. They can read and write, but that's all. We have a high literacy rate in the Philippines—83 percent—but I don't know how much thinking these people can do."

To supplement inadequate schooling, Governor Aquino has established a technological school to train mechanics, engineers, and agricultural specialists. The University of the Philippines also has a branch in Tarlac.

"We bring barrio chiefs in for week-long seminars," Governor Aquino said, "to teach them the things they need to know to improve their barrios: How to raise chickens, how to dig an artesian well, how to make a sanitary privy, how to avail themselves of government help. We follow up with three-man teams in jeeps, who go out into the barrios and supplement the teaching of the seminars."

HANDFUL OF HUKS STILL HOLDS OUT

Tarlac and Pampanga, the province to its south, harbor the remnants of the Hukbalahaps, Communist guerrillas who waged a fierce civil war in the early 1950's.

Ramón Magsaysay, a former wartime guerrilla, then Secretary of Defense, crushed the Huk rebellion by force and persuasion. He did not hesitate to shoot the Communists, but he offered land in Mindanao to those who surrendered. The final key to Magsaysay's victory was the arrest of almost the entire Huk leadership.

Magsaysay was elected President in 1953. His term began with high enthusiasm, but ended in tragedy when he died in an airplane crash on Cebu Island in 1957.

At the time of my visit the surviving Huks—now called the Hukbo Mapagpalayang Bayan, or People's Liberation Army—were fighting among themselves. The feud was personal, between two leaders, rather than political. Two days before I visited Tarlac, seven men of one group had been killed in an ambush by another.

Col. Manuel Yan, Chief of Staff of the First Philippine Constabulary Zone, combats these outlaws with about a thousand men. "Troops are posted in every town," he said, "to prevent action by the Huks."

Later Governor Aquino told me, "If the troops withdrew, the landowners wouldn't harvest a single seed. Huks would burn the crops. They operate like the Mafia. They have a protection racket." In all, the Huks influence perhaps eighty barrios out of more than a thousand in the two provinces.

Instead of bandits, I found men of mercy near a town named Angeles. At Clark Air Base, the tremendous United States installation that occupies 157,000 acres in Pampanga and Tarlac Provinces, I watched a C–130 from Viet Nam lumber up to the apron. Dark-blue buses and ambulances clustered around before its propellers stopped turning.

The ponderous rear door lowered, and doctors, nurses, and medics quickly went to work. Within 20 minutes after the plane touched down, its cargo of wounded and ill were under intensive care at the base hospital.

The efficiency of the well-trained medical crews was a little saddening: They obviously had had a lot of practice in handling wounded men. Critical cases are treated at Clark. Others get preliminary treatment and then are flown to Okinawa, Japan, Guam, Hawaii, and the mainland United States.

"We have more than 50,000 people on the base now—about double the number we had before Viet Nam," an Air Force colonel told me. "We go on no missions," he continued, "but we back up the Viet Nam theater, supply all the aircraft they need, and maintain the planes. This is the chief base for air supply of Viet Nam."

MAGELLAN BROUGHT CHRISTIANITY TO CEBU

Some 400 miles southward from jet-age Clark lies old Cebu, in the central Philippines. As my plane reached the island, the rice fields shone in the last light of day like pieces of the thin, translucent Capiz seashell that Filipinos often use in windows.

But by the time we neared the city of Cebu, dark clouds had gathered. Sudden lightning slapped the hills. When we touched down, it was raining hard.

Third largest city of the Philippines after Manila and Quezon City, Cebu was the first to be Christianized. Magellan, in the service of Spain, landed here in 1521, the first European to reach the island chain. What may be the original cross brought by him stands in a downtown street. Cebuanos light slender white candles at its base.

The Spaniards changed the name of the archipelago, which Magellan had called the St. Lazarus Islands, to the Philippine Islands in honor of Crown Prince Philip, later King Philip II. When Spain decided to push a military and spiritual invasion, Miguel Lopez de Legazpi began it at Cebu in 1565.

Cebu struck me as a jingling, jostling town, overrun by horse-drawn, two-wheeled *tartanillas* that function both as taxis and as buses. I was told there are 6,000 of them. A bustling new section of the city, reclaimed from the bay, nears completion. Yet people here say Cebu is a *mañana* town.

"I am always glad to get back to the peace of Cebu after a trip," a merchant told me. Even the diligent Chinese take time off for a leisurely cup of tea and a game of mah-jongg.

MAGELLAN DIED ON MACTAN ISLAND

One day I crossed the channel that divides the islands of Cebu and Mactan. A monument to Magellan rises on Mactan, where the Portuguese-born explorer died at the hands of native warriors.

Spain's influence lives on in the island's industry of making guitars and ukuleles. In Barrio Abuno I saw men and boys fashioning the instruments by hand. Polished to a high gloss and inlaid with mother-of-pearl, a guitar takes three days to complete.

Apparently the craft has deep roots in the island. When I asked, "Where did you learn to make guitars?" a young man answered, "From our forefathers, sir."

A 45-minute plane ride carried me from Cebu to Dumaguete, on the sugar island of Negros. Palms fringed the sea. Then the road became a passage through bright sugar cane.

At the town of Bais I met Miguel Franco, manager of sugar and paper mills owned by the giant Tabacalera Company. The paper mill converts bagasse, the residue of crushed sugar cane, into 30 tons of bond paper and 10 tons of paperboard a day. In the sugar mill we walked amid massive gear wheels, rollers, and nuts and bolts all strewn about.

"Now is the time we make repairs, while the cane is growing," Mr. Franco said.

While in Dumaguete I visited Silliman University, started as a Presbyterian school in an old Spanish home in 1901. Fifteen bare-foot boys were the first student body.

Today the university—still supported by United States churches—has an enrollment of nearly 3,500. Its campus includes a medical center, a new theology quadrangle, a good library, a high school and elementary school for practice teaching, an engineering building, and a school of nursing. Silliman is an excellent university, as are the Jesuit Ateneo de Manila, the University of the Philippines, and the Philippine Women's University.

When I returned to Manila, I went to the National Museum to learn about recent archeological discoveries made by its staff.

My taxi stopped at the side door of the museum, and I stepped into an amazing room. It displayed case after case of Tang, Sung, and Ming dynasty porcelains and pottery, and similar ware from Thailand. Chief anthropologist Dr. Robert Fox explained the hoard.

"We excavated 1,300 graves of 14th- and 15th-century Tagalogs in Batangas Province," he told me. "The Philippines has more antique Chinese trade pottery and porcelain than China, and more Siamese wares than Thailand. The reason is simple. In Siam and China, plates and jars were in daily use, and most of them were broken. Here they were used ritually and as grave furniture and thus were not destroyed."

The porcelain and pottery give evidence of an early trade between the Philippines and China and Siam. Treasures of the East were bartered in the Philippines for pearls from the Sulu Sea, gold, and hardwoods.

Robert Fox has found pottery dating a thousand years before the Christian Era in caves on Palawan Island, where he is digging with the support of the National Geographic Society. "We've found stone tools more than 30,000 years old, and we now know of 83 cave sites," he told me. "Palawan is the real archeological excitement now."

MOSLEM MOROS FLEE A CHRISTIAN SAINT

Dr. Fox introduced me to Galo B. Ocampo, director of the National Museum and a man of rapid action. Three minutes after we met he asked, "Do you want to go to Dapitan?"

"Sure," I said. "Where is Dapitan?"

"It's where Rizal was exiled," he said. "Be at the airport at six tomorrow."

The next morning, at Manila International Airport, we boarded a Philippines Air Force C-47 for the three-hour ride to Mindanao, the big southern island. The plane angled down over coconut palms that looked from the air like exploding star shells. Skimming a jumble of thatched roofs, we rolled onto the airstrip at Dipolog, then traveled by car a dozen miles farther.

Dapitan was aglow for the fiesta celebrating its 400th anniversary. Sound trucks wound slowly around the plaza blaring rock-'n'-roll music; horns on decorated pedicabs cheeped with the mindless constancy of day-old chicks, and over all resounded the cracked clanging of the bells in the parish church.

At noon the bells, in galvanized iron towers, set off a prodigious ringing. With ferocious yells a band of turbaned "Moros," waving wooden swords, breached the crowd and drove toward the church door. There they were met by the image of Santiago Matamoros, carried by four men. A red umbrella protected the saint from the sun. The Moros retreated as Santiago advanced.

This pageant represents the Battle of Covadonga in 1718, in which Saint James is believed to have appeared to rally the Spanish against Moorish invaders. For his battlefield exploits, he won the title Santiago Matamoros—Saint James the Moor Killer.

When Spanish priests first reached Dapitan in 1607 (the same year the first permanent English settlement in the New World was established, at Jamestown, Virginia), the village was frequently pillaged by Moro pirates. Santiago Matamoros was seized upon as a patron saint who could protect the town from the "Moors"—actually Moslem Filipinos.

In the afternoon we made our way to the national park on the site of the exile home of José Rizal, the national hero of the Republic of the Philippines.

Here, in buildings he fashioned himself, Rizal lived from 1892 to 1896. The reconstructed buildings stand in an idyllic grove of giant bauno, narra, talisay, and ipil trees. A constant shower of delicate pink blossoms fell from the bauno trees like sweet-smelling rain, making pink puddles on the ground.

Poet, painter, ophthalmologist, José Rizal sparked a revolution with his fervent novels, "Noli Me Tangere" and "El Filibusterismo." They tell of the terrors of life in the Philippines under the Spanish. The Spanish banned the books, but Filipino patriots smuggled them into the country and read them aloud to their countrymen. Dissatisfaction with Spanish rule flamed into action. Although Rizal believed in moderation, his name became a symbol of revolt.

To end his Dapitan exile, Rizal volunteered to serve as a doctor for the Spanish forces in Cuba. Before his ship reached Spain, he was arrested, returned to Manila, court-martialed, and executed by a firing squad on December 30, 1896. Today the anniversary of Rizal's death is a national holiday.

When Galo Ocampo climbed aboard the military plane and flew back to Manila, I stayed behind. I was headed for Zamboanga, on the westernmost tip of Mindanao. Zamboanga is a delight of flowers. Cascades of bougainvillea and white orchids cover the fronts of almost all the houses.

Now I had entered Moslem territory. Many Moslem men wear turbans or the little velvet caps called *kopia*, and both men and women wear *kantio*—long, loose cotton pants. Spanish is heard frequently, as well as the local dialect, *chabacano*—"bamboo Spanish."

BRIGHT FISH GLOW IN ZAMBOANGA'S MARKET

Arab missionaries, proselytizing for Allah, reached the Philippine long before the Spaniards. But their efforts to convert the Filipinos had not reach all the islands when the Spanish—themselves ardent missionaries for Catholicism—arrived. Islam remains strong in the Philippines only in Mindanao, Palawan, and the Sulu Archipelago.

One morning I wandered through Zamboanga's fish market, awed by the variety of marine life displayed on wet boards along the quayside. It included remoras, sharks six feet long, and diamond-shaped rays with violent blue spots. Some of the fish looked more like enameled jewelry than fare for a simple meal. One jet-black fish had a bright-red splash, like a stroke from an artist's brush, behind its gills.

Barefoot boys and housewives pattered toward home, carrying dinner by the tail.

That evening I sat on the sea wall in Zamboanga and watched the sun set behind mother-of-pearl clouds. The sea lay flat and glossy, and the distant hills of Basilan Island looked like the farther shore of a lake.

Bajao women—sea gypsies—drifted in *vintas*, outrigger canoes, by the sea wall. The sun turned the sea a gentle pink. The sails of the vintas turned pink, too, and so did the clouds. The hills faded to a soft blue and disappeared, and it was night.

A whole galaxy of pinpoint light gleamed from the wharf, where three ocean-going vessels were loading copra. I heard a flurry of ships' bells, saw fires being lit on nearby vintas, and sniffed the good smell of roasting fish drifting on the slow breeze.

Next morning I boarded a launch for the 90-minute ride to Basilan Island. All the seats were taken, so I scrunched in by a rooster morosely confined in a plactic-mesh shopping bag. There was a convincing odor of copra.

Moslem women nursed babies and chatted amiably. One woman wore a bright-blue blouse with buttons of gold and pearls. Eight enormous pearls graced her bracelet.

COCONUT PALM: TREE OF PLENTY

Once ashore, I rode a battered jeep to the Menzi Plantation, one of the show places of the Philippines. There I was greeted by young Onofre Griño, who handed me a cup of coffee, grown, roasted, and ground on the plantation. "We also grow rubber, black pepper, coconuts, and cacao," he told me.

In a soft rain we drove through graceful coconut groves. Useful as it is beautiful, the coconut thrives on the coastline, where most of the people of the Philippines live. These islands lead the world in production of coconuts. The crop returns more than $250,000,000 a year in foreign trade and forms a mainstay of the economy.

Coconut palms are cornucopias of good things, yielding much more than copra and coconut oil. Processed coconut shells may end up as high-grade charcoal, gears, cups, and buttons; the natural fibers of the husk make hats and strainers; leaves find use in brooms, roofing, and packaging. The flower-stalk sap gives a fermented drink, *tuba*.

We passed a water-filled ditch. "Don't tell me you have to irrigate, with all the rain you have," I said.

"Yes," Griño answered. "Indiscriminate logging and burning of the forest by squatters have destroyed so many trees that the climate of Basilan has changed. Rainfall used to be distributed uniformly all during the year. Now we have long dry spells."

JOLO CHRISTIANS LIVE IN FEAR

I could not get a boat to Jolo, capitol of Sulu Province, so I took a plane. I was glad I did. The landing was spectacular. The plane came in very low over the Sulu Sea, almost brushed bamboo and nipa houses, and landed with a whoosh not two blocks from town.

Jolo is an isle of fear: Its Christians live in dread of the Moslems, who form 98 percent of the populace. Moslems, "going *juramentado*," sometimes set out wildly to kill Christians.

"They believe that if they have killed a Christian before they die, they will enter heaven on a white horse," I was told.

So it took courage for my volunteer guide, Benjamin Tan, to drive me to the provincial capitol outside the city. "It stands in a dangerous district," he said, adding that the governor used the building only occasionally.

We saw but one person there: a guard in a white T-shirt, a rifle loosely cradled in his arms. In the main corridor of the building a cow gravely chewed her cud. We drove on to palm-tousled Mobo Beach, where a Japanese war vessel rusted in the gentle surf. Then we headed back to Jolo.

At Notre Dame of Jolo College, maintained by the Oblates of Mary Immaculate, I talked to Father Cuthbert Billman, a tall man in a white cassock.

"We go out of town all the time, and we certainly are Christians," he said. "But we don't proselytize. We try to solve problems through education. We try to build some of the bridges Pope John XXIII talked about."

The Notre Dame College student body is 75 percent Moslem.

Whatever else it may be—and it certainly is one of the fascinating small cities—Jolo must be the noisiest spot on earth. In a span of two minutes I noted these sounds: Bing Crosby singing "Happy Birthday to You" on a loud juke box, trumpet practice next door, a radio with a suffering singer, boys kicking tin cans on the pavement, children chanting the Koran, gravel thrown into a wheelbarrow, a dozen dogs barking, a plane taking off from the airport, school children singing, traffic and market noises, a clacking telegraph key, peddlers' cries, and the empty sound of two goats butting their heads together. Supreme over all this were the nerve-jangling bells rigged to the wheels of Jolo's pedicabs. Whenever the vehicles move, the bells ring.

Big red buses with slat sides roll into town at all hours, blazing the way with raucous horns. I was not enamored of the buses, but I liked the sign on their sides: "No Clinging Around."

When I sought passage to Sitankai and the Sulu islands with tom-tom names—Dongdong, Tawitawi, Sanga Sanga, and Sumbasumba—I was told, "You don't want to go there. They've got a shooting war going on."

Bullets fly in the southern seas between smugglers, hijackers, and customs men. Smugglers, using catamarans powered with two Mercedes-Benz engines, can make hundreds of thousands of pesos running contraband in from Borneo. They can afford the best equipment. Government boats haven't a chance.

SULU PEARLS NOW GROW ON FARMS

The smuggling war has ended the profitable pearling trade in the Sulu Archipelago. "There are still lots of pearls, but they are all underwater," said Francisco Terol, manager of the Jolo Light and Power Co. "The pearlers won't go out because of the pirates."

I found a different story at Samal Island, in the Davao Gulf off southeastern Mindanao. There the Aguinaldo pearl farm, in a little cove, is guarded by spraddle-legged watchtowers. Search lights crisscross the place at night. Obviously, unexpected visitors are not welcome in these waters.

Daniel Aguinaldo, a Manila businessman, started the farm in 1958 by airlifting 12,000 white-lipped oysters from the Sulu Sea. The oyster, with a shell the size of a dinner plate, can manufacture white, pink, or gold pearls, Aguinaldo also raises black-lipped oysters, which form coveted "black" pearls.

The oysters grow in wire baskets suspended from bamboo rafts. These cast latice shadows in the turquoise water, where hundreds of brightly colored fish dart in and out among the baskets.

MINDANAO FINALLY KEEPS ITS PROMISE

A short launch ride across a narrow strait brought me to the bustling gulf-coast city of Davao on Mindanao. Called the "land of promise" so long that Filipinos have dubbed it "land of promises," the big, rich island now shows signs of living up to its expectations.

At Davao I saw progress everywhere: bales of blond abaca fiber—Manila hemp for fine rope—piling up on the docks; gigantic timber trucks delivering logs to plywood mills.

Visiting a nearby plantation, I saw groves of abaca plants, which resemble small banana plants. At the mill, men unloaded abaca stalks from little railway cars and threw them into crusher. Then they rolled through "finger" machines that separated the fiber. When the fibers were washed, dried, and burnished, they were ready for market.

At Bislig, on the eastern coast of Mindanao, a paper mill designed to use forest wastes was being built. It represents one of Mindanao's promises made good—a papermaking process using Philippine hardwoods. Fifteen years of research went into perfecting the process.

The "grist" for this mill will come from the Bislig Bay Company's 395,000-acre timber concession. Resident manager William Godinez and woods boss Arthur Balch showed me around.

"When we hit the beach here in 1950," Mr. Balch said, "there wasn't a single major logging outfit on this coast. Everyone thought we were crazy. They said the sea was too rough for shipping logs, and that there was too much rain for us to build roads."

As he spoke it was raining at Bislig, and the Pacific did indeed look rough. Only about 60 miles west lay the Philippine Trench, with one of earth's deepest soundings at 34,440 feet.

Driving into the forest, we passed huge earthmovers slogging through the mud.

"Logging's mostly a matter of building roads," Bill Godinez said. "There is no money unless the logs come out of the woods."

We stopped at a muddy clearing in the tall forest. Men standing on a platform sawed at the base of a lauan—a tree that reaches market as "Philippine mahogany."

As we got out of the car, Bill Godinez pointed upward. A high-climber, his figure tiny against the bole of a 130-foot tree, adjusted his safety belt and started his power saw.

The saw snarled and bit into the trunk a hundred feet above the ground. With a tremendous crackling, the 30-foot crown bent slowly in a great arc and dived into the mud far below. Shattered branches and geysers of mud splashed into the air. The tree whipped violently, and I pitied the clinging figure of the man at the top.

Later I felt the earth shake as sawyers dropped two giant trees into the underbrush. I watched a yarder drag seven-ton logs through the woods, as if bringing huge fish to gaff. The forest rang with whistles, the rasp of saw blades, the shouts of men.

FOREST GIANTS MATURE IN 70 YEARS

"We don't reseed," Bill Godinez told me. "The forest regenerates itself very quickly. We leave trees less than 24 inches in diameter. We'll cut those in 35 years. We'll be cutting today's seedings 70 years from now."

More than half of the Philippines comprises forest and mountain land, and I saw much of it in the days that followed. I flew north from Manila to the Lepanto copper mine with operations manager Charles Foster and his wife Lucille. The trip took 57 minutes by plane; it would have taken 14 hours by jeep over twisting mountain roads.

Flying amid popcorn clouds, we soared over the Trinidad Valley, called "the salad bowl of the Philippines." Its fertile fields were spaced as regularly as lines on a ledger. In northwestern Luzon, Charles Foster brought his plane down smoothly on an airstrip laid out on a mountaintop.

IGOROTS LEARN TO DRIVE LOCOMOTIVES AND BLAST ROCK

I found Lepanto a thriving community, complete with schools, post office, hospital, police and fire departments, a women's club, and a golf course that leaps from peak to steep peak. It is the only beautiful mining camp I have ever seen. Most of the 1,350 workers are Igorots, primitive people who live in the hills.

"They come from villages the wheel hasn't reached," Mr. Foster said, "yet they quickly learn to drive locomotives, drill rock, and use dynamite."

Mrs. Foster founded Lepanto Crafts, Inc., to revive interest in weaving and give jobs to 200 women and boys. She led me through the weaving houses, open-sided and grass-roofed.

Igorot women, red and white beads entwined in their hair, their arms tattooed to the shoulders, worked primitive looms. Warps of brilliant blue, red, and green slashed diagonals from rafters to floor.

Charles Foster flew me on to the quiet old Spanish town of Vigan, on Luzon's west coast. Its cathedral was built in 1641, replacing a wooden chapel erected in 1574. In the plaza I saw signs urging the people to a greater morality. At one end, a stone José Rizal looks down from a fountain in which stand models of the islands of the Philippines. The neglected fountain contained no water. A goat grazed on Mindanao.

At Vigan I hired a jeep complete with an interpreter-driver, and headed south through rich countryside that resembled a well-kept park beside the blue sea. We turned sharply east near the town of Tagudin, and as the road began to climb, the country changed drastically.

Towering bamboo in feathery clumps choked deep gullies. Vines, shrubs, trees, and flowers grew in great tangles. The road became steeper. Waterfalls cascaded onto the road. Ferns and pines began to climb the hills with us.

Finally the jeep coughed over the last rise, and we stopped before a memorial commemorating the Battle of Bessang Pass, one of the last in the Philippines, fought from May 17 to June 14, 1945. It read: "The battle, spearheaded by the 121st Infantry of the United States Armed Forces in the Philippines, North Luzon, was conceded by the American military authorities as one of the most terrible and incredibly difficult battles in the entire war. . . ."

Bessang Pass. I was ashamed to think I had never heard of it. It seemed unbelievable to me that men could have climbed to this pass bearing the machines of war, under heavy fire from the Japanese.

Driving through the narrow pass, we rounded a curve, and I saw a hillside white with Easter lilies. They grew horizontally from the cliff, like trumpets in silent fanfare for the gallant men who died on those slopes.

UNWARY ONCE LOST THEIR HEADS IN BONTOC

We drove on to Bontoc, the "capital" of Igorot country. Part of the town lives in the 20th century, the other part is 2,000 years old. Igorot men, wearing nothing but red-and-white G-strings, hunker down in conversation with friends dressed in khaki or denim. Many men carry short iron-tipped spears. It is arresting to see an Igorot, naked except for a G-string and long knife, wearing a plastic snap-brim hat in violent green.

A friend in Manila had warned me: "The mountain to the right of Bontoc is very delicate. Twelve farmers were killed there last week and their heads removed."

Although I had been practicing keeping my head when all about me were losing theirs, I was a trifle uneasy. No traveler wants to return home a head shorter than when he left.

Happily, I met Gabriel Dunuan, then chairman of the Commission on National Integration in Bontoc, and an Igorot himself. I asked him about the head-hunting.

"There is a lot of myth about that," he said. "It was the custom among the Igorots, but it is not going on now."

Mr. Dunuan's national commission is charged with establishing and raising cultural, social, economic, moral, and political levels for the republic's cultural minorities—among them tribes like the Ilongot that do still practice head-hunting. (A news item from Manila only last April warned Filipino picnickers: "It's Head-Hunting Time Again.")

"It's quite a job," Mr. Dunuan said mildly, "something like starting a new nation.

"I saw some Ilongots the other day," he said. "They are still naked. 'Look,' I told them, 'I wore a G-string until I was ten. I was fortunate to persist in education. That is the only difference between you and me.'"

Mr. Dunuan summed up the problem by saying: "The Philippines cannot become really great as a nation by neglecting the welfare of 10 percent of the population. These minority groups are the weakest link in the national chain."

That night the rain and wind began. I laid my head on a hotel pillow embroidered with red roses and the legend, "God Bless Me."

In the next couple of days my interpreter and I traversed the savage hills in a screaming typhoon, lost a wheel of the jeep, skirted landslides, and finally saw a raging river chop off the road at our feet. I often thought of that pillow.

I have been on many roads, but none so spectacular as the Bessang-Bontoc-Banaue highway. It scallops the flank of the mountains, and so steeply do the hills fall away that we literally rode at treetop level, mile after mile.

The chill rain became a whistling mass, and we entered a watery world as the jeep plunged gallantly along the steep road. The green mountains shimmered and disappeared and wanly came into view again.

We passed a rain-blurred sign: "Banaue Central Annex School—200 meters up." An arrow pointed straight up the mountain. A proper sign for a vertical country.

TERRACES STAIRSTEP THE MOUNTAINS

The Banaue Valley was a bowl of pea-soup fog, but the screaming wind tore the clouds away to reveal one of the unbelievable sights of the world, the Banaue rice terraces.

Working on almost vertical hills, the Ifugaos have constructed rock walls to hold their paddy fields, walls which would stretch more than 1,000 miles if laid end to end. This incredible handiwork resulted in nearly 100,000 acres of level ground!

My first reaction was simple disbelief. In the mists, the terraces resembled a mint-and-chocolate cake of gargantuan proportions. Foot-wide waterfalls slamming from terrace to terrace looked like birthday candles.

I could not stay to wonder at the sight. I was in real danger of being blown away.

We had a cup of coffee at Banaue. Outside, the wind whipped the trees and sent out spears of rain.

"How far to Baguio?" I asked.

"Four hours, sir."

"Can we make it?"

"It depends on the landslides, sir."

"We'd better try," I said.

It was a tense drive, a constant peering ahead to the next curve to see whether the road was still clear. We skirted landslides too small to stop us. Impromptu waterfalls clattered on the top of the jeep. The sodden hills began to give way. I became profoundly conscious of the walls of rock and mud overhanging the road.

We never did make Baguio. The hissing Magat River chewed out the road a few

miles beyond Bayombong. We back tracked to spend the night. Two sopping days later we wrung ourselves out in Manila.

WAR'S RUINS RECALL A VALIANT STAND

Next day I boarded the sleek 68-foot *Flying Fish*, a hydrofoil boat that took me to Corregidor in less than an hour. The island lies low and green at the entrance to Manila Bay, three miles from Bataan (inset map, page 313).

I climbed aboard a Philippine Army truck and jogged up the road to the Malinta Tunnel, General MacArthur's headquarters from late December, 1941, to March, 1942. Malinta is empty now, but a sign at a lateral tunnel that served as a hospital reads:

"Please maintain silence, and you will hear the wailing of the wounded and the whisper of death."

Bataan and Corregidor are two words deeply thrust into the history of both the United States and the Philippines. After the smashing air attack and invasion by the Japanese, the defending forces—four-fifths Filipino—were pushed back by strength of arms.

Finally, the only resistance was on the Bataan Peninsula and Corregidor. For months the heroic men and women held out in a battle they were fated to lose. Corregidor fell, but its defenders had not fought in vain. The hopeless stand delayed the Japanese military timetable by several months.

My truck passed the long, narrow shell of "Mile-Long Barracks," bleached and white under the ipil-ipil trees. Nothing remains but pitted concrete, with stairs, that lead nowhere and empty windows like eyesockets. Three mortars that defended Corregidor to the last are still in position, barrels lifted high.

The parade ground topside is empty. On three sides stand the shells of the headquarters barracks and administration buildings. Trees today have found footholds in these white concrete relics. The roofless post theater now holds a grove of monkeypod trees.

The truck ride was rough. The guide, a Filipino sergeant, said, "The next time you come, we will have a paved road and a bus."

Throughout the Philippines, I had seen all the hallmarks of a developing country: The contrast between great wealth and besmirching poverty, the beginnings of a middle class, the race for education, the struggle for political identity. And I had met some dedicated men and women doing their utmost to help make the Philippines a modern country.

Dr. Leonides Virata, the brilliant young economist so concerned with smuggling, was one of them.

"We have a democracy, although it is noisy and expensive," he told me. "Democracy has taken root here, and it works. We were nourished in freedom, and that is the biggest dividend my people have received from America.

"Right now we are a hodgepodge, but unless we are victims of aggression or internal subversion, another 25 years will see us there."

PHILIPPINES

More than 7,000 islands and islets rise from a partly submerged mountain chain to form the Philippines. Largely tropical wilderness, 90 percent of the islands are uninhabited, 60 percent unnamed. Two-thirds of the population lives on the two largest islands, Luzon and Mindanao.

Predominantly of Malay origin, Filipinos trace their origins as far back as 3000 B.C., to the first immigrants from Indonesia and Malaya. Hillsides terraced with rice fields bear witness to ancient engineering skills.

In the 14th century Arab missionaries brought Islam to the Sulus and other southern islands. The Christian influence dates from 1521, when Magellan landed on Cebu, opening the way for Spanish colonization in 1565. Spain's rule lasted 333 years, ending with the Spanish-American War. The United States guided the Philippines during the next 48 years, leaving a heritage of language and liberty. The nation became fully independent on July 4, 1946.

Government: Republic. Land area: 115,830 square miles, about the size of Arizona, extending 1,150 miles north and south, the sweep of Washington, Oregon, and California combined. Population: 32,600,000, mainly of Malay stock. Language: Officially Filipino (Tagalog); English (spoken by 40%), Spanish, 80-odd native dialects. Religion: 83% Roman Catholic; Aglipayan (an independent Christian sect), Moslem, Protestant minorities. Economy: copra, sugar, abaca, lumber, fishing, gold, lead, manganese, iron, copper, chromite. Cities: Manila, port, industrial center (pop. 1,339,000); Quezon City (Manila suburb), capital; Baguio, summer capital; Pasay; Cebu. Climate: Hot, humid, heavy rainfall.

[Produced by the Public Information Office, Office of the President, Manila, Philippine Islands]

FERDINAND E. MARCOS, PRESIDENT, REPUBLIC OF THE PHILIPPINES

A FRIEND FROM ASIA

Of all the present Asian leaders, President Ferdinand E. Marcos of the Republic of the Philippines shows every sign of becoming the most persuasive and most deeply committed to the cause of democracy, both as a system opposed to communism and dedicated to peace and freedom.

It is not difficult to believe in this, for Ferdinand Marcos, born on Sept. 11, 1917, belongs to the generation that grew up in a time that was still stirred by World War I and in a country that was imbued with the democratic ideals learned from America, and passionately embraced by a people and their leaders who longed for freedom.

Ferdinand Marcos was a studious youth, as reflected in his high grades from elementary school through high school and college. Because of his serious mind, he soon became conscious of politics and the dynamics of government. Pursuing a law course in the state university, the University of the Philippines in Manila, he became a student leader and participated in student demonstrations against certain national ills at the time and for the early attainment of independence.

His life suddenly took a dramatic turn, when even as he was finishing his law course, he was accused of the murder of a political enemy of his father, Mariano Marcos, a public school teacher turned politician. Mariano Marcos served a term as representative in the Philippine Legislature and later was appointed governor of Davao province in Mindanao. The young Marcos was subsequently convicted by the local court in a highly controversial decision. He appealed his case while still in detention, at the same time continuing to review for the bar examinations.

He passed the bar in 1939, with one of the highest grades in bar history, and won his case, arguing his defense personally before the Philippine Supreme Court.

In 1941, as an ROTC reserve officer, he was drafted into the Philippine Army even as war clouds hovered over Asia. As a lieutenant in combat intelligence in Bataan, he soon proved to be a daring and resourceful officer. Leading critical patrol and combat missions in such famed battle areas as Mt. Natib, Mt. Samat and Salian River, he won many citations, including the Silver Star Medal and the U.S. Distinguished Service Cross, which General Douglas MacArthur himself pinned on him.

After the fall of Bataan, the young officer joined the resistance movement, but not before being sucked into the Death March to prison camp in Central Luzon and later undergoing torture at bleak Fort Santiago by the Japanese secret police as a guerrilla suspect. He escaped and founded an intelligence group, which he eventually fused with the guerrilla organization called the United States Armed Forces in the Philippines-Northern Luzon. This unit fought inside enemy lines in the rugged terrain of the Cordilleras range in the Mountain Province.

During the Liberation Campaign, President Marcos fought in a decisive battle of the war, the Battle of Bessang Pass, which led to the capture of General Yamashita, the commanding general of the Japanese Imperial Forces in the Philippines.

President Marcos emerged from the war with nearly every medal and decoration for courage and gallantry the Philippine and American governments could bestow on a soldier. He received, in all, 27 medals and decorations, making him the most decorated Filipino soldier in World War II. Four of his decorations were for five wounds sustained in battle.

His first taste of civil administration was his assignment to establish a government in the areas cleared of Japanese by his outfit, in Northern Luzon. He continued to do this, first as combat officer then as judge advocate general and civil affairs officer of the USAFIP-NL. From this experience, he went actively into public service.

He served as a technical assistant to President Manuel A. Roxas, the first President of the Republic of the Philippines, in 1946, then led a mission of Filipino officers in 1947 to Washington, D.C., to secure from the U.S. Congress arrears-in-pay and other benefits for Filipino World War II veterans.

In 1949, at 32 years, he ran for the Philippine Congress, and won a seat as representative of the second district of his home province, Ilocos Norte, in Northern Luzon. It was the same district once represented by his father. This launched his political career.

He served as Congressman for three consecutive terms—one term is four years—and after his third term, he ran for senator and won the highest number of votes among the senatorial candidates. That was in 1959. As with his career in the Lower House, he was a leading senator, occupying vital positions of leadership.

In the Senate, he was minority leader and then President. He also served as a member of the National Economic Council, the Council of Leaders and the Council of State.

A prolific lawmaker, he established a record during his terms in both Houses for the most number of important bills introduced, many of which were passed. He pioneered in land reform legislation, championed the Land Tenure Act in the House and steered the passage of the Land Reform Code in the Senate. He also worked to strengthen trade unionism, was cosponsor of the Magna Carta of Labor and the Anti-Scab Law.

President Marcos had, indeed, a broad interest as legislator, which ranged from agriculture to civil liberties, economics to foreign relations. It was as though he was rehearsing for the Philippine presidency, for which he set his hat from the jump-off point of the senate presidency, which he held at the time he broke off with the then President Macapagal and the Liberal Party, and joined the Nacionalista Party.

In the Nacionalista Party national convention of 1965, he fought a hard but masterly battle, with the odds against him, being a neophyte member of the party while contesting the presidential nomination with veteran Nacionalista leaders. The resounding triumph of President Marcos, in a way, indicated what was to come in the presidential campaign that was to follow. As it turned out, it was an uphill battle all the way, but the votes ultimately gave President Marcos a clear-cut mandate from the people.

In his first six months in office, President Marcos spiritedly faced up to the crisis in government, which had to contend with low morale, depressed public funds, and an economic slump. Today, there is a new briskness in government operations, resumed economic activity, and fresh public confidence in the national leadership.

In foreign relations, President Marcos unequivocally reiterated Philippine support of the free way of life and the Philippines' staunch opposition to communism, as proven by his vigorous advocacy of Philippine assistance to South Vietnam in its struggle against communist aggression. He has also sparked the resumption of Philippine diplomatic ties with the Federation of Malaysia, the recognition of Singapore, and the rapproachment between Malaysia and Indonesia. He has enunciated a policy of support for any move to strengthen economic, cultural and mutual defense agreements among friendly Asian countries, in the interest of common development and stability.

THE FIRST LADY

The Philippines' First Lady, Mrs. Imelda Romualdez Marcos is a First Lady in the tradition of Mrs. Jacqueline Kennedy and Queen Sirikit of Thailand.

Young, tall, statuesque, she first won national attention because of her beauty when she was chosen Miss Manila. She had just graduated from college in her home province of Leyte and had recently arrived in Manila, one of a dazzling crop of post war debutantes.

Although born in Manila, Mrs. Marcos' roots are in the Visayan region, the group of islands south of Manila, which forms one of the three main regions of the Philippines. (The other two are Luzon island in the north, and Mindanao in the south.)

She has much to be proud of in the way of family and family heritage. The Romualdezes of Leyte, an island in the Visayas, have a long history of political leadership in that province and in the nation.

Her forebears founded the town of Tolosa, which now she regards as her hometown. Her father, Don Vicente O. Romualdez, was a prominent lawyer, the youngest in a family of three boys, all of whom distinguished themselves in public, civic, and cultural activities.

The eldest, Norberto, became a justice of the Philippine Supreme Court and a member of the Philippine Assembly, the lawmaking body of the Philippine Commonwealth in 1935. He wrote the preamble of the Philippine Constitution. His artistic side is a family trait. He compiled one of the first collections of native folk songs, scoring the most popular, "My Nipa Hut." Schoolchildren still sing it in classrooms today.

The other brother, Miguel, was one of Manila's mayors. The rest of the clan, through succeeding generations, have served as senators, congressmen, ambassadors, governor, bankers, and eminent professionals. Notable among them was Daniel Romualdez, a cousin of the First Lady. Shortly before he died, he was Speaker of the House of Representatives of the Philippine Congress.

Her own branch of the family, however, is not political. Her father was more of a scholarly bent, interested in music and culture. Her mother, of the Trinidad family of the town of Baliuag, in Bulacan (Luzon) was endowed with the charm of Bulacan women, who are as famed for grace as the women of the South.

Imelda Marcos spent her childhood in the shadow of Malacañan palace in Manila. Her family lived near the church of San Miguel, the district of the city where the palace stands. She went to a nearby school, now known as the College of the Holy Spirit, a Catholic school run by nuns. When her mother died, her father moved the family back to the ancestral house in Tacloban, Leyte, where he became dean of the law school of St. Paul's College.

She set a new pace as a political helpmeet, making speeches, sponsoring baptisms and weddings, and often singing before vast crowds that attended meetings where she was the main attraction. She followed a campaign trail different from her husband's. Often they would not see each other for weeks. Wherever she appeared, there was always a huge turnout, and invariably the crowd would clamor for a song.

This prodigious performance was a tribute to a lady who at first thought she was not cut out to be a politician's wife. But by force of will and intelligence, she completely overhauled her personality. Today, she is not only the consummate First Lady, but a brilliant politician in her own right. Contrary to expectations that she would be merely decorative as a First Lady, Imelda Marcos has proved a deep interest in Philippine culture and the arts. Even now she is planning a more meaningful and systematic pursuit of social welfare work.

Already, she has launched a national theater in Manila that will house performances in legitimate drama, symphonic music, opera, and other performing arts. She plans to extend aid to artist as well as promote culture. She has not forgotten, however, that once she said, "Before the people can indulge the mind, they should first have enough to eat."

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[From the Philippines Free Press, Aug. 13, 1966]

HALF YEAR MARK: FERDINAND THE FIRST DISCOURSES ON THE HUNDRED DAYS THAT BLOOMED IN APRILTIME AND THE LONG HOT SUMMER SINCE THEN

(By Quijano de Manila)

Convalescent, says President Marcos, is the state of the nation today.

"Before, the nation was following a trend of economic degeneracy as well as social degradation. The common man was not attended to. He was losing respect for the government. He was ready to rebel against constituted authority. As for the economy: the gross national product, which had reached, according to statistics, as high as 4.5 billion, had gone down to 3.2 billion—a decrease which indicated that the economy had been destroyed."

A nation in crisis was what Ferdinand Marcos felt he had inherited.

He believes his first hundred days in office "reversed the trend of deterioration":

"The turning point was in April."

It was then he noticed a "change in spirit" among government personnel.

"They started coming to me—I mean government officials and employees—and frankly admitted wherein they had failed. They offered their own suggestions. Customs people came to me personally, some of them at night, volunteering to be witnesses against persons suspected of graft. Then I know the outlook had changed. They were ready to cooperate."

So was business, apparently infected by the new spirit.

"In our highly competitive business sector, people will cut each other's throats because they're only out to make money. So, I could understand the attitude of the previous administration in trying to restrain them. But when I saw these same competing industries, these competing sectors in the economy, trying to band together to help the government, I know the tide had turned. That was around April."

And Apriltime stirred in the public, too?

"Yes, also in the public. It was indifferent before as to who were in office. I think the cynical before would say: Whoever are in power, they're all alike—politicians making money and doing nothing good for the people. But suddenly people were gathering into volunteer groups to help in agricultural development. People began prodding the government agencies in their communities, in the barrios, in the small towns—people with constructive proposals. People notified us of government lands abandoned in Mindanao and suggested how to put them to use. I didn't know the Board of Liquidators had so much land at its disposal! And there were suggestions from veterans, suggestions from society women who wanted to stop crime, who wanted to participate in the fight against juvenile delinquency. And when I saw these voluntary well-intentioned efforts to help the government, I knew the feeling of despair among the people had subsided."

That, he says, was one of his two principal objectives when he assumed office; to "change the outlook of the people," which had become "dangerous."

"The outlook of the people was not only resignation but tolerance of and even participation in official graft—an acceptance of the state of crisis, a resignation to misery. Seeping down was a feeling of despair—and I feared this despair would erupt again in violent rebellion, whether Huk-led or not. The conditions were there for a sudden uprising against established control.

"So, we had to work on this—and it was a more complicated job than I thought. You had first to establish integrity in the government. The program to increase taxes for instance, became part of the campaign to change the people's attitude to taxes."

And to change the habits, too, of the folk who collect taxes.

"I was denied the authority to reorganize the government, but in the Bureau of Customs I change the commissioner and was upheld by the courts. The courts approved an authority to reorganize the government but Congress did not act on the bill."

Still, he has been able to slip in new men he hopes will have a "reinvigorating" influence on the old ones. He was acting here on his war experience.

"In guerrilla days we had good soldiers—some of them well-trained comrades in Bataan—and bad soldiers; and whenever there was a battle we'd put in the good soldiers among the bad ones and the bad soldiers stopped running away from the fight. Believe it or not, we solved this problem that way, because the good soldiers contaminated the bad ones with courage. I'm hoping a similar experiment will succeed in the government."

And a reformed government should likewise "contaminate" the public with health, civic health.

The President is touchingly sure it's already happening:

"The state of the nation now. It has recovered from its illness. It's convalescing and is ready to initiate, energetically, the program of development."

No development would be possible unless he succeeded, first, in changing the public outlook, his prime objective, and second, in stabilizing the fiscal position of the government, his other urgent objective on assuming office. The government couldn't run without money—"and unless the government could run, there was no government for me to be head of."

This was an emergency: the state had to be rescued from bankruptcy.

MONEY THE ROOT

He started planning the rescue operation as early as November 25, 1965:

"I had to. I was taken aback by the fiscal position of the government, and its continuing deterioration. The government was earning four and a half million a day and spending six million daily. And that didn't include the government corporations. At

that rate we stood to lose over seven hundred million in deficits alone during my first year."

In November he began meeting with an "extra-legal group, some of them in the government, others from the private sector," and laid down plans to "curb the crookedness" of state finances. The operation unrolled according to plan as soon as he entered the Palace.

First step was the removal of all casual and temporary laborers and employees who had no items, only political padrinos.

Second step was not filling vacant government positions: "A study indicates we can remove one-fourth of government officials and employees and have a more efficient government."

Third step was the merging, whenever possible, of government offices—and here he has been hampered by the Civil Service Law and Congress' refusal to give him the authority to reorganize. But he points out that all the different offices now engaged in irrigation service, for example, could be consolidated into a single water-source authority which might do the job more cheaply and effectively: "One of the things held against us by the World Bank is that Nawasa was given a four-year loan of 22 and a half million and hasn't been able to finish a single project!"

Fourth step was the screening of government contracts: "All contracts for purchase of equipment had to pass through my office, had to be approved by my office, had to require public bidding. When we suspect cartelization of bids, we always check if somebody else is willing to sell at a lower price. Usually somebody else is; so we save."

Fifth step, a twin move, was to bolster industry, which swells state revenue, and to smash smuggling, which shrinks it.

Sixth step was to increase tax collections, which necessarily involves the revamp of the tax agencies: "I wanted to put Customs under a Port Authority, so this authority would have physical control over the facilities, the physical facilities, of the bureau, while the man in charge of tax collection would have only that job to attend to. As it is now, the customs commissioner has to attend to things like harbor works, dredging, and the like—and if the Department of Public Works has been unable to finish Pier 15 and Pier 3 in, I think, four years, notwithstanding a loan from the World Bank, it's difficult now to say who was responsible that the money was lost. Because of pier pilferages, shipping cartels impose an additional 30 percent cost on all goods exported from this country. We are the source of almost 100 percent of the materials of the plywood industry in the Orient, but we ourselves produce only 10 percent of the plywood used in the world because our plywood industry cannot compete in the world market with that extra 30 percent imposition on shipping charges. And all because of a lack of institutional reform, the reorganization we could immediately start if only . . ."

One can see the man is chafing under the strings that bind him: "All those special laws creating offices and corporations that cannot be dismantled or demobilized." He feels himself blocked. "I'm not asking for blanket authority, only the authority to reorganize subject to the approval of Congress. I'm ready with a reorganization plan. I could have presented it in any of the special sessions." Why didn't he? "I don't have the authority yet. You'd first have to amend the Administrative Act, the Civil Service Law, the charters of the various corporations. You know how much we expect to lose on the national railways this year? Eight and a half million! We could have done more, not stop smuggling alone, if we had been able to reorganize the government."

But he feels he has at least stopped the downward slide to bankruptcy. Spurring every step he took was his tribe's passion for thrift: "The cynical would say all this arose from my Ilocano ancestry!" All this economizing has indeed exposed him to attack: "I have been charged with illegally retiring 70 generals." But he insists that his policy of retrenchment "reversed the deficit trend as of January 31, my first month."

"We started to liquidate our indebtedness by a hundred million in April, three months later. After another three months we paid another hundred million."

He offers other proofs of the state's stabilized fiscal position:

"The peso, always the best indicator of economic conditions in the country, is stronger now. Its free exchange position to the dollar in December was ₱3.96. Its position in June was ₱3.89. Our dollar reserves were down to 140 million in December, are now up to 210 million. The International Monetary Fund, which supervises the central banking systems, has seen fit to lift restrictions on the ceiling of borrowing by our government, which means that it thinks our government has become more responsible in expenditures. That ceiling had been with us since the time of Roxas. The International Monetary Fund clamped down on our Central Bank and set the ceiling at 50 million dollars: no borrowing beyond that. But now they have lifted the ceiling. So, we are now economically or monetarily independent in a sense."

The ratio of government expenses to income before 1966 was six million to four and a half, or a daily deficit of one and a half million. The present ratio, according to the President, is "five million and a half in income to about 4.8 million in expenses."

And one reason for the solvency, says the President, is that he has made profit respectable again.

GAIN AND GREED

"If I may be allowed to say so, the previous administration apparently did not grasp the principle of industry. There was a tendency to discourage the making of profit. They felt, I think, that any kind of profit-making, whether legitimate or otherwise, was bad. But industry, but commerce moves on profit. In fact, we discovered this to be true even in agriculture—so much so that we now have a price ceiling on rice, to encourage production. We have encouraged investments to come in and investors to go back to factories that had been closed.

"An example of this would be textiles. In December there were 70 textile mills in the Philippines but only four were operating, and they were operating only two days a week, one eight-hour shift per day. Now all 70 mills are open, are operating seven days a week, 24 hours a day. And their production has already been committed up to December of this year. In fact, they are exporting."

Business lagged before, opines the President, because both the monetary and the banking system, private as well as public, denied industry its chief incentive: gain. Having restored the incentive, the President now hopes to change the "atmosphere of investment" by prodding not only foreign but domestic capital to move in less timidly.

"We must interest the local, shall we say, penny-pinchers—people who hide their money in vaults, coconut shells and pillowcases—to utilize that money constructively by investing it in productive private enterprise. So, we prepared what we call the program of distressed industries."

He cites Delta Canning as an example of a company in distress the program rescued. "It's the most modern factory in the entire Far East: a push-button affair. It uses up 250 cows a day and could double that any time it wants." But Delta was in trouble because of government competition. So: "Namarco had to be stopped from selling imported canned goods at 30% the cost price. That was a political gimmick, I know." Then Delta had to be shored up with loans. So, the government bought preferred shares that didn't entitle it to a stockholder's vote and could be sold to the public any time the government wants to withdraw. "That's necessary because nobody will buy the preferred shares until the company is making money. So the government has to put up the money."

But where was the government to get the money? Floating bonds might cause inflation. "Instead, we created another innovation: the private security market." This market attracts idle hidden money by offering short-term notes which can be exchanged for preferred shares, in say, Delta when Delta becomes profitable. In other words, the small investors provide the funds the government uses to shore up Delta. The moment the company is back in the black, the small investors have the option to turn their treasury notes into shares in the company. Thus, the funds invested in industry are "all private money, all private savings—nothing from the government, since we should not, as much as possible, use government funds or we'll have inflation."

How is the private security market doing? "We have more orders than we can handle! In no time we sold from ten to twenty million in bearer notes." The President suspects that the market is so popular because the large portion of the population that doesn't declare its true income and hides it in actual currency is now being given the chance to utilize that money without being discovered and sent to jail—by buying the anonymous bearer notes. "So I suspect that it has been correctly estimated that, while the currency in circulation may total two billion, another half billion or more may be in hiding and that's why we have the tight-money situation. Actually we're still on the entrepreneur level. When we have drawn into the private security market all the money in vaults, coconut shells and pillowcases, the atmosphere of investment will have changed."

To safeguard investment, says the President, distressed industries are carefully classified as "viable" or hopeless. Only the former qualify for the aid program. "Now the nice part has come. Industries formerly listed as distressed are saying: No, you strike us off the list, we are no longer distressed."

Not only the aid program brought this about but also the drive against the "ruinous competition" of smuggling, which the President believes he has cut by at least 40%. To whet the appetite for lawful gain that's commerce, he had to dull the greed for lawless profit that's smuggling. If for the one he had to restore incentive, for the other he had to remove it.

"I'm asked why don't I put one bigtime smuggler in jail? Because I don't believe we can stop smuggling merely with punitive measures. To stop smuggling we must first remove the incentive and destroy the organization that supports it. Part of the organization is in the government. So the first step was to reorganize the PC leadership all the way. We are not through with that yet. The PC was corrupt—let's admit it, *they* admit it. And local police forces were in the pay of the smugglers. Remove government support and the smugglers are dead. They can't bring in anything without government support.

"Then you go after the smugglers themselves, the actual active smugglers. The bigtime financiers are not these active elements. They supply the funds but you don't catch them actually going to the seashore with a bayong.

"Then the incentive must be removed. But how? The suggestion of the Free Press is to improve the local product. I have followed the suggestion of the Free Press. We offered local cigarette manufacturers, for example, on a trial basis, the right to import

blending tobacco, on the promise that they will improve the quality of their cigarettes without increasing the price. They came back with a counter offer. They said: 'If we establish a factory for quality-brand cigarettes, will you guarantee us the blending tobacco?' I told them: 'Yes, give me the contract, but be sure you tie down the franchise properly with Chesterfield, Salem, Camel and the other big U.S. companies.'

"In this experiment we are giving local manufacturers a million kilos of blending tobacco. Now they say they need more. They claim they use at least five million kilos a year even on their low-grade cigarettes. They say the proportion is 10% blend to 90% native. They want to increase to 20% the proportion of blending tobacco. In short, they're asking for double. I said: 'No, let's experiment first and see how you do. If you make good, all right. I'll follow the suggestion of the Free Press all the way and give you all the blending tobacco you want.' But no more middlemen importing blending tobacco and reselling it to the factories for profit—the profit that determines the quality of the cigarette.

"I don't smoke but I must tell you about my tobacco problems. Everyone wants to come in, wants to import tobacco, wants to make a lot of profit. Every politician, every two-bit leader—they want to get the right to import blending tobacco. The last administration signed a lot of such contracts and I have cancelled all of them; I'll probably end up in court. But I'm cutting out the middlemen. The blending tobacco must go straight to the factories. I called in the manufacturers and told them to organize and experiment. They are now working on the new blend. A Chesterfield factory is opening here probably next month, and other factories are to follow. All this proves, of course, that I read the Free Press."

Smokers whose switch to the tax-paid's attests to the 40% success of the drive against smuggling hoarsely await the advent of the promised better locals at the same price. May the new product never acquire the blue-seals' maddening habit of vanishing (and reappearing at ever increasing prices) as soon as the public has become addicted to them!

Another possible ploy against the smugglers—the reduction of duties on imported cigarettes, "not to a level that would ruin the local industry, but just enough to remove the incentive from smuggling"—is, sighs the President, "another of my disappointments in Congress." But he feels he has made headway against the other form of smuggling: the misdeclaration of imported goods, of which the *Argo* case is the most scandalous example.

"The misdeclaration starts at the points of origin and is supported by documents signed by our consuls. So, we had to investigate the consuls. If they claim they signed without first checking, they were negligent in the performance of their duties and have no business being in the foreign service. But everybody says: 'Marcos is violating the Foreign Service Act and kicking out people without cause.' But we are doing this legally, after investigating.

"When the misdeclared goods arrive at our ports, we cannot touch the importer unless he claims the goods: he usually uses a fictitious name. So, now, before anybody can take out goods from Customs, we ask both importer and exporter to sign affidavits under oath that the goods were properly declared. If we find they were not, the exporter is blacklisted and can no longer trade in Philippine ports; the importer becomes liable to punishment under the Criminal Code. *That* has stopped a lot of misdeclaration.

So have the reforms at the piers.

"I removed all investigating teams from Customs. Everybody was there: the CIS, NBI, BIR, and the Manila police. Everyone wanted a finger in the pie. I replaced them with one agency under Gen. Pelagio Cruz. It's doing very well.

"And then the arrastre, or the job of unloading and warehousing goods, which was part of the Customs service and was very inefficient and corrupt. So, we insisted it be taken over by the private sector, after public bidding. The move was started by President Macapagal but he never could seem to get it off the ground. When I saw that the transfer was being blocked by labor and court litigations I went to Customs. I called [Roberto] Oca and told him: 'Why don't you get together with the bidders and enter into a contract with one of them? By God,' I said 'I'll hold you liable if there's any stealing of goods here! It will be your men.' So he entered into a contract with Guacod, but we split the contract so it would not be a monopoly. Guacod gets two piers, Razón has two piers. They're doing well. Pilferage has gone down. The shippers were going to impose another 5% on goods coming from the Philippines, in addition to the extra 30%, but they have suspended the new charge, which means pilferage has been reduced if not eliminated on some of the piers."

The port of Manila is important but there are other ports just as vital to any program of economic development. And here we come to the President's "infrastructure support" for his imminent Four-Year Development Program. If *that* overture sounds stale, let's hope the performance won't be.

THE BASIC PROPS

"The cheapest kind of transportation," says the President, "is water transportation. So we have to build ports."

Rice from the Cagayan Valley costs more to transport by land than to produce; so Cagayan rice and corn stay there when they could be shipped to the rest of the country. Palanan could be developed as a port for Cagayan but can be used only during the six months of the year when the northeast monsoon is not blowing. An alternate port is needed for the rest of the year, and the President has chosen Santa Ana, on the northwest coast of Luzon.

"We are also trying to develop San Fernando in La Union. It's a very good port and less costly than Manila, so much so that Secretary Yulo ships his sugar from San Fernando rather than from Manila and the sugar comes all the way from Calamba."

Sual, the historic port from which the Central Plain shipped rice when the Philippines was still *exporting* rice, could be rehabilitated; and apparently there was such a plan in previous regimes. When he went to inspect the port, says the President, he discovered "six dredges sitting in the bay doing nothing—six dredges allowed for years to accumulate barnacles while the port silted and the channels narrowed."

A similar languor explains why land transportation is so difficult and costly: where there are roads at all the roads are atrocious. Yet some 200 million is collected each year from the gasoline fund, the motor vehicles tax, the highway tax, etc., which is supposed to go to road-building. Two hundred million a year for roads—"but," says the President, "during the last four years, up to December, we cemented less than a hundred kilometers of road."

He hesitates to publicize his "bold road program, utilizing both government funds and private financing," but when the roads are finished they will be "one thing we can brag about."

"For instance, very few people know about the North Diversionary Road, from Balintawak straight to Meycauayan. It's big: eight lanes. For decades we have talked about the need for such a road; it's being constructed now. They're planning to give it to me as a birthday gift. It took a long time because they had to raise the bed, the ground there is a bit low and, besides, I told them I didn't want a sloppy job. I said to them: Build that road to last a century though we put on it all the heavy trucks we want to.

"Another thing: we have already finished the Manila South Road and you can now go by car from Manila to Sorsogon. There may be places where you'll have difficulty going through because they're cementing mudholes and I didn't want them to stop even during the rainy season, but you can go through."

He says he will insist that reparations go no more to "a few persons in the private sector" but to the government, to finance the building of roads, big permanent bridges, irrigation systems and power plants.

"We are also trying to prevent floods. A principal flood source are the headwaters of the Agno River. I don't know why nobody ever though of it before, but a series of dams in the mountains of those headwaters—for example, in Pantabangan, Nueva Ecija—would check floods in Pampanga and the Tagalog region. I know those mountains from guerrilla days, they're very narrow, you can put up dams there. They would cost a lot, from 60 to 240 million, but would be worth it. Floods cost us anywhere from 150 to 300 million pesos a year."

Irrigation water may cost as much as flood water: 50 million dollars.

"On paper, we are supposed to be irrigating a million hectares. I look at the plans and they are beautiful. We have big irrigation systems—on paper. But I discovered that we actually irrigate only 300,000 hectares. Why? Because those irrigation systems have not been rehabilitated. To rehabilitate them, I had to request authority to borrow 50 million dollars from the World Bank, my first request for a loan, and it has been approved. But even before it was approved we had started work already on the irrigation systems. Irrigation and roads are most important to the infrastructure."

And firming up the infra-structure was "the first step in the Four-Year Development Program."

TO EARTHWARDS

"This Four-Year Development Program had been in preparation since November but I didn't dare bring it out until we had established the basic prerequisites: financial stability in the government, a changed outlook in the people. Now we come out with the Four-Year Development Program, which actually, in short, is nothing but a program aimed at increasing the per capita income of the greatest number of our people: the farmers and laborers. I am not against industry but I would rather favor agriculture as a foundation for industry. France is an industrial country but its principal products in the European Common Market are agricultural. The money to import rice: why can't we use it to develop our rice industry instead? That's a basic aim: self-sufficiency in rice and corn in the next three years."

Agriculture confronted him with the usual paradoxes. Brilliant research work by the agricultural agencies had, for instance, produced a strain of rice yielding 150 cavans per hectare—but this type of rice had not reached the farmer, was not being distributed among planters. Much concern over educating the peasantry in scientific farming—but the Presidential Assistant for Community Development had been "relegated to a minor job." ("I elevated the head of this office to cabinet position.') A great to-do about liberating tenants from landlord and usurer—but the Agricultural Credit Administration had "become so low in morale it

had no vision, no idea of what to do in the next four years."

The President knows he's suspected of having a cold eye for Land Reform because it wasn't his baby; but he protests he was merely pondering how to turn a "political gimmick" into a practical project: it hadn't been working.

"Last year, several towns were declared land-reform areas. The results are tragic. The farmers lost money, they had to go to usurers, we had to bail them out. Several estates were divided among the tenants, who were supposed to pay in installments. A total of about eight million in installments are unpaid so far. The farmers claim they didn't make money because they were not properly financed. The truth is, they didn't know how to utilize the land. We have to educate the farmer first, then finance him."

When the President this month proclaimed Pampanga's second district (popularly known as Huklandia) as a land-reform area, he took that "deliberate risk," he says, only because "I think we have discovered a technique for generating funds for land reform: the Land Bank."

Into the Land Bank will go government real estate, proceeds from the sale of government stocks that "are not making money," or of their assets, which will form the collateral from which the Land Bank will generate money. "We have 50 million pesos' worth of real estate that can be transferred immediately to the Land Bank. I opened the bank with only two million in cash, but the money will not go to overhead because we're putting in the Land Bank people already in the government. They will raise the funds to purchase all available hacienda lands."

The purchased lands will eventually be sold to the tenants on them, but only after they have undergone the two phases of a training in responsible farming.

The first phase turns the peasant from a sharecropper into a leaseholder; he pays rent on the land he farms, but no longer has a landlord to extend him credit for his expenses. The government takes the place of his old landlord; but the Agricultural Credit Administration will extend him credit on the understanding that he will use the methods he has learned from such agencies as the PACD, the Productivity Commission, the Land Reform Council, and the rural banks, all of which will be mobilized to help him raise more crops and improve his condition.

In the second phase, the leaseholder becomes the owner of his land. "Now you have the problem of dividing the land into what's called family-size farm and arranging payment on a long-range amortization plan of, say, 20 years." But the second phase should be smooth sailing if the first phase has succeeded in instilling in the peasant a feeling of dignity, a sense of responsibility. The education of the masses is necessary if production is to increase; and only with increased production can the general aim of the President's Four-Year Development Program be achieved: "the establishment of a balanced agro-industrial economy."

BRICKS AND BATS

His half-year in office may have convinced Ferdinand Marcos that walking on water is easier than moving on land. Like his predecessors, he has been balked by a status quo that resists "reorganization"—and what price new bricks for a belfry the bats won't vacate? Like his predecessors, he has found an initial popularity succumbing to the old ills of unemployment, high prices and civic disorder. The Marcos luck has hardly been in evidence during a honeymoon period marked by mishaps—from vanishing water to raging volcanoes to resurgent Huks. Those who read in his foreign actuations, especially on Vietnam, a subservience to American interests have been unkind enough to paint him as the unwitting initiator of the "rightist revolution." The disappointed say that if Ferdie raised a hand now it wouldn't be to flash the V-sign but to ward off the brickbats.

What happened to the blooms of April-time? The Vietnam summer of Ferdinand Marcos has been very long and very, very hot.

Does he think he's being unfairly attacked?

"To a certain extent, yes, although I would rather say I am misunderstood. Of course I'm hurt a little by criticism. Who is not. I am human and criticisms like that. . ."

Of high prices, for instance, he says: "Give me three years and I'll stabilize them."

Of the Huks, he contends that they are not the menace they were in the '40s, which is why he refused to suspend constitutional rights in Central Luzon: "The Huks today are more a criminal element than ideological fighters. The government is in control of the situation in Central Luzon and we have a new concept in the use of the armed forces. They will no longer be a group trained to kill but a group trained to construct. An engineer construction battalion built 130 kilometers of the Manila South Road. An engineer construction battalion is now working on the North Diversionary Road. Military engineers are now in the most sensitive areas of Pampanga building roads and irrigation ditches. But the concept is not merely soldier work but a partnership between civilians and soldiers. In these constructions, civilian participation is 60%."

Of the Vietnam dispute, he thinks the basic misunderstanding arises from the belief that he ran on the issue of no troops for Vietnam and then, when elected, reversed his stand because of American pressure. He says he made that oft-quoted statement on Vietnam in April or March, 1965, when he was still not a presidential candidate, and that he repeated the statement only once during the campaign.

When he made the initial statement, the United States had not yet committed itself to a defense of South Vietnam. If the French had lost there and the Americans were reluctant to fight there, what chance had the Philippines of stopping the Viet Congs even if it sent the entire Philippine army to Vietnam? So, he had said it would be a useless and tragic effort to send troops, *fighting* troops, to Vietnam.

"I made the statement during a press interview while Senate president. It drew no reaction, except from urban intellectuals. It was treated as an academic question. During the campaign, neither of the two other presidential candidates, Macapagal and Manglapus, made an issue of it.

"Then, during the latter part of the campaign, Johnson announced his decision to commit U.S. land forces on the mainland of China. Johnson had decided to stay in Asia. The whole picture had changed. I am of the firm belief that SEATO without the United States is nothing. So, to protect itself, it is to the interest of the Philippines not only to keep the United States in Asia but to encourage it to stay."

That shaped his decision to send troops to Vietnam.

"The allegation that this decision was imposed on me by the Americans is unfair, and it is not true. My decision was arrived at purely from a consideration of the national interest. But because I issued a statement on the matter after the visit of Vice-President HUMPHREY, I was hit as an American stooge. I had to deny that the decision was arrived at because of the visit and I pointed out that as early as mid-November, before the arrival of the American vice-president, I had stated, in an interview as president-elect, that I favored the sending of additional aid to Vietnam in the form of troops. Nobody had seen me or talked to me then; I was so incommunicado even my own family could not see me. The decision was made before contact with anybody.

"I had not meant to talk on Vietnam in that interview, but I was asked whether any development in Vietnam had attracted my attention. I said yes, the massive support of America for South Vietnam. I was then asked what I, who had been quoted as opposing the sending of hostile troops to Vietnam, had to say about this latest development. I replied: 'I am now ready to reassess my position; I am now in favor of sending additional aid to South Vietnam in the form of an engineering construction battalion with a security force.'

"That was what the Vietnam government had requested—an engineering construction battalion—and I followed the request verbatim."

THE GOOD GOAD

Since his original position was that we should not send *fighting* troops to Vietnam he says he can say he did not change his mind or stand because "I still maintain we are not sending hostile troops—though this may be a point of pure semantics!"

But he thinks the dispute salutary.

"I have always encouraged debate on Vietnam because I feel this is a decision that has to be made not by one man but by the people and I acknowledge that the debate has been healthy for our democracy. First, it has awakened the younger elements in our country and shown the potentialities of our youth. And second, it has demonstrated that no matter to what limits a debate may go the legislative process continues. What I mean is that they consider the argument—so much so that it affected the voting in the Senate. Some in my own party who are close to me were convinced to vote against the bill."

Moreover, criticism, especially from an independent press—"for which I fought in Congress"—is a guide to those in power, whom servility may shield from reality.

"I remember the exhortation of the priest who delivered the sermon at my wedding. He related that the father confessor of a king who had just been crowned told the new king: 'Your majesty, you have heard the truth for the last time.' That has always stuck in my mind."

So will, undoubtedly, his first half-year in office. It has been tough all around. He looks thinner—"I'm deliberately losing weight"—but still plays golf every day.

"Not only because of doctor's orders but because I have been an athlete all my life. The doctor says if I suddenly stop I'll be killed by a heart attack. I am physically fit. I can play nine holes—that's about two kilometers—without coughing too hard. I can run upstairs faster than my guards.

"The presidency is more taxing than I thought, but you have to enjoy it or you would resign. Everything centers on the President. Look at all those people waiting outside. They're keeping me up till one in the morning, waiting for small favors, small things. The President is a father image and every problem, no matter how small, is brought to him. Now, I wish this could be changed, so the President could engage in constructive thinking. I have only two hours a day for constructive thinking.

"I am reorganizing the executive office. I have eight assistants ready to attend to all these people, and more effectively than I can because they have at their fingertips all the information needed. But everybody wants to see Ferdinand."

Last week—when the question that tickled this "convalescent" nation was: Will he or won't he go on that state visit to Washington?—the President was himself convalescing from a cold and cast a rather captious eye on the road behind him, the road to the mid-year mark.

"I am not content with the results of the anti-crime drive—but there has been progress. Smuggling has not been entirely eradicated—but we will keep moving forward. The future of our export industries lies in agriculture and mining: we must open up new mines, increase our agricultural output—I am not content with the improvement in industry."

It's the man's cry at the mid-year mark: *Not content, not content!* And isn't it good for authority to be itself discontented with its performance?

"But the stage has been set for the upliftment of the common man and his return to dignity, hope, aspiration, the capacity for self-fulfillment. The stage is set. *That* is the most accurate statement I can make," he says.

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OUR ASIAN ALLY: PHILIPPINE PRESIDENT HAS PRAISE FOR U.S. POLICY

(By Roscoe Drummond)

Americans will soon have in their midst a bave Asian ally and a superb advocate of the growing will of more Asian nations to unite in defending themselves against Communist aggression.

He has earned the esteem and respect of Asians and Americans alike. He will address a joint session of Congress on Sept. 15 and will speak to the United Nations a few days later. I believe he deserves to be heeded, whether one is a supporter or critic of United States actions in Vietnam.

The Asian spokesman is the young president of the Philippines, Ferdinand E. Marcos. In advance of his speeches in the United States, I wish to cite some of his views and insights which are not widely known.

Question: How do you think Indonesia escaped the attempted Communist coup?

President Marcos: It was only the American presence in Vietnam, I feel, which prevented the fall of the Indonesian Government into Communist hands. Not only Indonesia, but also other countries.

Question: Why do you feel this is true?

Marco: The Communists supposedly plotted an effort to prevent a take-over by the enemies of President Sukarno. But it actually was an open and outright coup to take over the government. It was planned a long, long time ago. The situation became such that the Communists were certain, were very certain, not only of internal support but of support from outside.

Question: What intervened?

Marcos: When the American Government decided to increase its aid to South Vietnam, that knocked out all previous assumptions. But by then, the Communists had begun the initial moves of their operation and it was too late for them to pull back. And very few people know this.

Many leaders who were wavering in Indonesia immediately realized that the Communist coup was going to fail. Also, with large U.S. forces in Vietnam, the Red Chinese would not have either the capability nor the inclination to send any help whatsoever to the Indonesian Communists. And that is exactly what happened.

Question: Then you think the United States action in Vietnam has been worthwhile?

Marcos: Of course it has been worthwhile. At first I was against sending our combat troops to fight in Vietnam because we in the Philippines were not sure of the firmness of the U.S. will to stick it out. Our doubts have now been wholly removed. The U.S. has made abundantly clear its determination to maintain its presence there. (The Philippines will soon be sending combat forces to Vietnam.)

The American presence goes far beyond the effect on the North Vietnamese and the Vietcong. The fight which the Communists refer to as the "fight for national liberation" is the single most important thing that will determine the state of affairs in Asia for the next century. You can hardly imagine what might have happened if there had been no demonstration of resolution on the part of the United States.

Question: Would it be helpful to have Red China in the U.N.?

Marcos: Unfortunately, as of now, the leadership of Red China is not willing to renounce war as an instrument of international policy.

To be eligible, she must be willing to live peacefully with her neighbors. When she is prepared to do so, let her leaders say so—and act so.

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[From the Washington (D.C.) Post, Sept. 14, 1966]

VISITOR FROM MANILA

In Philippines President Fernando E. Marcos, who arrives here today on a state visit, the United States welcomes a tested friend of long standing. As the most decorated Filipino soldier in World War II, Marcos played a celebrated role in the dark days of Bataan and in the capture of General Yamashita at Bessang Pass. Without his heroism, General MacArthur has said, Bataan would have fallen three months sooner. Inaugurated seven months ago after a bitter election battle, Marcos has shown notable courage in his decision to send a 2,000-man engineer force to South Vietnam. He has kept to his course on this issue despite a storm of domestic controversy, warning that "if the Communists win in Vietnam, that victory will signal the reactivation of Communist insurgency all over Southeast Asia, including the Philippines."

Marcos appealed to Filipinos in a recent speech to treat the issue of Vietnam "separately from the 'irritants' in Philippine-American relations. The issue is larger than our grievances with the United States." But he then added pointedly for Washington's benefit that "we are tackling these grievances, and we are determined that Philippine-American relations must continue to evolve towards widening equality and true reciprocity as between two mature and friendly states."

In his conversations with President Johnson, Marcos is expected to press for the removal of the so-called "parity clause" in the Laurel-Langley trade treaty, which places American businessmen on a par with Filipinos in the exploitation of the country's natural resources. Manila would also like a reduction in the 99-year tenure provision accompanying U.S. lease rights on defense installations and return of additional U.S.-held base lands. None of the outstanding issues between the two countries, including the hardy perennial of veterans' claims and benefits, should prove insuperable obstacles to understanding given sensitivity to the growth of Filipino nationalist feeling on the part of the United States.

Washington and Manila are bound in an unambiguous defense relationship signified by President Johnson's 1964 declaration that "any armed attack against the Philippines would be regarded as an attack against U.S. forces stationed there and against the United States, and would be instantly repelled." This is a natural outgrowth of the intimate historic ties between the two countries spanning half a century. With its long experience of dominion in the islands, the United States has inevitably acquired a special concern for the post-independence evolution of the Philippines. President Marcos has warned that Huk insurgents are once again disturbing the peace in Luzon, and the United States should be ready now, as in the past, to extend needed military and economic help.

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[From Life, Aug. 8, 1966]

PHILIPPINES' FIRST LADY AT WORK: BUSY BEAUTY IN THE BARRIOS

Not since the days of Jackie Kennedy in Washington's White House has a First Lady moved into her role with the verve and style of Imelda Marcos, wife of the new President of the Philippines. With all the grace and attractiveness of Jackie, and with an energy reminiscent of Eleanor Roosevelt, Mrs. Marcos appears to be everywhere in the Philippines at once. Even when in Malacañang Palace, the presidential residence, she receives some 40 visitors in her normal 18-hour "working day." And those who have not called on their First Lady can read all about her in local newspapers which record her activities in detail and with gushing praise. "We all love her," says one reporter. Says another: "She is a marvelous person, a beautiful lady." And another even finds it necessary to invent a new word, explaining that "it's difficult not to queenify her."

President Ferdinand Marcos has, in a glamorous and well-reported career as war hero, congressman and senator, attained popularity of his own, and he has begun to attack the formidable problems of his country with a bravura which has earned him general admiration so far. But a major contribution to his popularity has been his handsome and energetic wife.

In last year's presidential campaign Mrs. Marcos showed that she could tirelessly tour the countryside speaking, singing and cajoling the voters. In the seven months since the inauguration she has also shown that she can take up a dozen causes at once, bounce across the barrios for hours at a time without being ruffled, eat whatever is offered without harm to digestion or figure, and act as her husband's eyes and ears wherever she goes. And beneath the coolly charming exterior are the will and determination of a woman who knows exactly what she wants for her country, for her family and for herself.

Recently Life's Photographer Harry Redl and Reporter Ron de Paolo recorded this exclusive account of a busy beauty at work on a demanding but rewarding job.

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[From Life, Aug. 8, 1966]

HOW "MISS MANILA" BECAME FIRST LADY

(By Ron de Paolo)

The First Lady of the Philippines might never have met her husband if it had not been for some mosquitoes. According to a story that has become Philippine legend, Imelda Romualdez had been waiting outside the congressional building in Manila for her cousin who, as acting Speaker of the House, was presiding over an acrimonious debate in the Chamber. A sudden invasion of mosquitoes drove her and the Speaker's wife to seek refuge in the House cafeteria. As she recalls, "I had first heard Ferdinand's voice in the hall coming over the loudspeaker, denouncing the position of my cousin's party. The voice was marvelous, but I didn't like the words. When the debate was over, he came into the cafeteria and looked at me. He tried for about five minutes to get someone to introduce us, but nobody would. Finally, a friend did. Then he measured himself against my height and said, 'Perfect.' [The First Lady is about an inch shorter than the President.] Later I found out that he spent the entire night calling friends and telling them that he was in love."

As a member of the wealthy and politically powerful Romualdez clan, Imelda tried to ignore the cocky upstart politician from the opposition party. But he persisted, and she finally relented enough to talk to him on

unavoidable occasions. But he became so impetuous a suitor that she announced that she was going to Hong Kong on vacation. Instead she went to Baguio, in Luzon's pine-covered hills, while the brash young Congressman stood at Manila airport clutching (as she expected) a ticket for Hong Kong. But Marcos, hopelessly smitten by the black-eyed, raven-haired "Meldy," discovered her ruse and pursued her to Baguio, where he managed to impress her devoutly Catholic sensibilities by escorting her to church and reciting a long Mass verbatim. (The President has a nearly photographic memory, can read a speech once and recite it without notes.) And so, in just 11 days from their first meeting in the cafeteria, in a courtship that was chronicled in all the newspapers of the country, the "Golden Voice of the North" married the "Rose of Tacloban."

Last year's bitterly contested, year-long campaign was deservedly called the "dirtiest and costliest" in Philippine history. Both Marcoses were viciously attacked. The presidential candidate was accused of being a murderer, and his wife was charged with posing nude for cheap magazines and movies. The murder charge stemmed back to Marcos' youth when his father was defeated for Congress in another nasty campaign, after which the winner was found dead. Four years later, Ferdinand, then only 22 years old, was arrested for the murder. But, after taking his bar examination while released on bail and under guard (and getting the highest score ever recorded), he won his first case—arguing his own acquittal before the Supreme Court.

The "nude pictures" charge against Imelda probably arose from her brief career as a beauty queen, first presiding over a flower festival in her hometown of Tacloban, Leyte, and later being selected as Miss Manila of 1954. The latter title brought with it promises of a movie career and the chance to enter the nationwide Miss Philippines contest. But Imelda's father, appalled by the commercial aspects of the contest, abruptly vetoed the idea and ended her beauty queen career. It was perfectly respectable for a well-bred Filipino to reign over a local flower festival or even to be recognized as the prettiest girl in Manila, but family honor and family tradition forbade excessive publicity or exploitation.

Imelda deftly parried both the charges, as she now recalls, placing her well-manicured hands on her bosom. "I would tell them in the barrios that I would not disgrace my family by posing for those movies, and that I could not be married—to that kind of man. If he was a beast, I would not be married to him and would be happier dead. Once they saw what kind of woman I was, they knew the truth." So convincing was she that incredulous professional politicians now credit Imelda Marcos alone with garnering at least a million votes for her hard-pressed husband, against the incumbent President Diosdado Macapagal.

Today Imelda Marcos not only plays the full role of First Lady but also finds enough time to be a devoted wife and attentive mother to their three children. It is at her insistence that she and her husband lunch together daily, and they make a point of saving as many evenings as possible just to be alone as a family. In public the President and his wife preserve the image of a family team. Touring the barrios, Marcos refuses to start his speech until his wife is at his side. And as he finishes his speech, husband and wife swing into what has become a veritable ritual. "I will give you everything I have," he announces, "except my wife." And then, as Imelda croons a sentimental Filipino ballad in her clear soprano, the Filipinos—no matter how often they have seen it and heard it all before—go wild over their busy, beautiful First Lady.

[From Parade, Sept. 11, 1966]

IMELDA MARCOS: THE FIRST LADY OF ASIA—THIS BEAUTY AND HER HUSBAND, PRESIDENT OF THE PHILIPPINES, WILL PAY US A STATE VISIT

(By Vera Glaser)

WASHINGTON, D.C.—Imelda Romualdez Marcos, the brunette wife of the president of the Philippines, who is about to visit the U.S., comes on strong. Besides magnificent honey-colored skin, eyes of fiery topaz and the figure of a beauty queen, she has brains and energy to boot.

When President and Mrs. Johnson get their first look at "Meldy," as 32 million adoring Filipinos call her, they will discover why she is regarded in some quarters as the First Lady of Asia. Her style, cultural flair and interest in much needed welfare projects, set against the backdrop of the young democracy her husband leads, have earned her comparison with Jacqueline Kennedy and Eleanor Roosevelt.

"It's a privilege to be associated with them," Mrs. Marcos said in rippling silk accents—her folk singing on the campaign trail helped elect her husband—"but I would rather be myself."

At 36 Mrs. Marcos, mother of three, is the glamorous teammate of 49-year-old Ferdinand E. Marcos, World War II hero and political wonder boy, who was elected the Philippines' sixth president last November, ousting incumbent Diosdado Macapagal. Overcoming her early distaste for politics, she barnstormed for her husband by plane, car, jeep and outrigger canoe.

"He's hired a movie star," a political foe charged after Mrs. Marcos had enchanted voters by singing in Ilocano, the tongue of her husband's province in northern Luzon, and in her own Visayan dialect. In pointed heels and bright Philippine *terno*, the traditional floor-length dress with butterfly sleeves, she hiked back the rutted road to prove she was really the candidate's wife.

Now she is official hostess at Malacañang, the rambling white presidential palace set among acacias and circled by a wrought-iron fence, in teeming, humid Manila. The Palace was formerly the residence of Spanish and U.S. governors. Choosing their private apartment there was a problem, Mrs. Marcos recalled humorously, "because in one wing of the Palace all the presidents died, and in the other all the presidents lost."

Finally they settled on a four-bedroom suite. There, in endless, animated private talks, they mull over plans for their current effort to renew Filipino pride in a national heritage tracing back to 3000 B.C.

"You're in charge of culture and welfare," the president told his wife at his inaugural, an event attended by Vice President and Mrs. Hubert H. Humphrey.

In a nation still battling poverty and corruption, the assignment might seem staggering to anyone but "Meldy," who in less than a year has launched a flurry of projects which have captured the popular imagination, inspiring the "haves" to dig deep into their pockets for her causes.

Her kickoff for a 35-million-peso cultural center raised the first million in a single night. She managed the feat by gathering political and social leaders together for a gala benefit of Flower Drum Song with an all-Filipino cast. The remainder of the money was collected from private sources in four months, and construction on the combination theater, library and museum is scheduled to begin shortly.

Now Mrs. Marcos is boosting a national market for Philippine art and handicrafts. In addition, she is up to her eyelashes in promoting tourism, selling beautification and coordinating a cradle-to-grave welfare program for which private and government agencies equally share the costs. Children, juvenile delinquents, unwed mothers, prisoners, the mentally retarded and the aged, all are due to benefit.

"When you are First Lady, you can work yourself to death, or you can sleep," contends Mrs. Marcos. "When I lie down even for a minute, I tell myself I could be helping a hundred, perhaps a thousand people, in that time."

A BEATLE BOO-BOO

Filipinos respond with a fierce loyalty. In July the Beatles, given the red carpet treatment on their arrival in Manila, were lucky to get away alive after affronting the First Lady by failing to keep a Palace luncheon date. Shouts of "Scram!", "Get out of our country!" and a score of unprintable curses were hurled by the angry crowd. The mop-haired troupe was pushed and shoved, and one of their party was kicked to the ground. Police protection and other courtesies were withdrawn.

Mrs. Marcos's warmth and charm are lavished on friend and critic alike. When the Philippine congress voted to send troops to fight beside the U.S. in South Vietnam, pro-Communist demonstrators picketed the Palace. President Marcos called in the leaders, but his wife ventured outside to wave and smile to the pickets. Applauding, they departed quickly.

Public life is not new to this First Lady. She is a member of the Romualdez family of Leyte, a powerful political clan which has produced senators, congressmen, ambassadors, a Supreme Court justice, governors and bank presidents. Her father was Dean of Law at St. Paul's College, where she earned a bachelor's degree in education and later won a music scholarship and worked at teaching and writing. Her younger brother, Benjamin, is the newly named ambassador to the U.S.

"MISS LEYTE"

Imelda grew up in Manila. She was sent there to study after her mother's death. She was then 8 years old, and she lived with her uncle, the Speaker of the Philippine House, who served as her guardian. At 18, her good looks, lyric soprano voice and 36–23–35 measurements won her the title of "Miss Leyte." At 24, her whirlwind romance with Marcos was a national sensation.

The love story began when Imelda and her aunt visited the capitol during a late session. Marcos, a young congressman who had emerged from the war with nearly every decoration bestowed by the Philippine and U.S. governments, was in the thick of battle again—this time fighting the administration on its budget.

Although 13 years Imelda's senior and considered Manila's most eligible bachelor, Marcos succumbed after one look and sought an introduction. But "Meldy" refused to give him her telephone number. Undaunted, Marcos pursued her to Baguio, the summer capital, where the courtship flourished. Eleven days after their first meeting, they were married in a civil ceremony. To the bridegroom's surprise, Mrs. Marcos refused to enter the hotel suite he had reserved, until a church wedding could be arranged 10 days later.

To this day the presidential pair believe 11 is their lucky number. As Mrs. Marcos explains it, "My husband was born September 11. We were married after 11 days of courtship. We had our first child, Maria Imelda, about 11 months afterward. We were sure we were going to win this election because this is the 11th year of our marriage."

Most evenings the president takes time to help his children, Maria Imelda, 11, Ferdinand Jr., 7, and Irene, 5, with their studies in Tagalog, the official Philippine language, as well as English and Spanish.

Then, at the end of each day, Mr. and Mrs. Marcos enjoy comparing notes.

Besides Philippine styles, she wears slacks, Paris frocks, Italian knits and American suits but seldom dons her fabulous jewels. The president describes his wife, who dances the frug and jerk, as "irrepressible." She describes their marriage as "out of this world."

"Whatever I am, I am Ferdinand's creation," the First Lady claims. "He has helped me to grow with him, not side by side, but a little behind him."

## LAKE MICHIGAN DUMPING BY THE CORPS OF ENGINEERS

Mr. DOUGLAS. Mr. President, I have been quite concerned about the dumping of large amounts of filthy river-bottom dredgings into Lake Michigan by the U.S. Army Corps of Engineers. I think the people of Chicago and all those who love and value Lake Michigan are rightfully indignant about this situation.

On November 17, 1965, and again on July 7, 1966, President Johnson issued Executive orders directing Federal departments and agencies to "provide leadership in the nationwide effort to improve water quality through prevention, control, and abatement of water pollution from Federal Government activities in the United States."

Whatever excuses are offered, it seems obvious to me that the Corps of Engineers is acting in direct violation of the President's orders, and of the will of Congress as expressed in the Federal Water Pollution Control Act.

This is not a question of what is easier for the Corps, or even of what is cheaper to do; it is a question of what is best for the public. The Great Lakes belong to all of us. No one has the right to contaminate them, least of all an agency of the Government. Let us be clear, once and for all, that there is no more right to pollute a lake than there is to deface a statue in a public park. I believe this; the city council of the city of Chicago believes this, and so does the Metropolitan Sanitary District of Greater Chicago.

It has been wrongly alleged that "Chicago" is polluting Lake Michigan. Mr. President, let me say for the RECORD that "Chicago"—its people, its public officials, its sanitary agencies—is not the culprit in this matter.

Mr. President, I ask unanimous consent that a resolution adopted by the city council of the city of Chicago at its meeting on August 25, 1966, urging that steps be taken to prevent further pollution of the waters of Lake Michigan, be inserted in the CONGRESSIONAL RECORD at this point.

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

CITY OF CHICAGO,
OFFICE OF THE CITY CLERK,
*August 30, 1966.*

The Honorable PAUL H. DOUGLAS,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR DOUGLAS: I transmit herewith a certified copy of the resolution adopted by the City Council of the City of Chicago at its regular meeting held on August 25, 1966, urging that steps be taken to prevent further pollution of the waters of Lake Michigan.

Yours truly,

JOHN C. MARCIN,
*City Clerk.*

RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF CHICAGO AT A REGULAR MEETING HELD ON AUGUST 25, 1966

Whereas, Barge loads of soil containing contaminated and polluted waters, sand and gravel, municipal wastes and other materials, are presently being transported from the Chicago area waterways and dumped or discharged into Lake Michigan some 10 or 20 miles from the shores of the lake; and

Whereas, A conference in the matter of pollution of the interstate waters of the Grand Calumet River, Little Calumet River, Calumet River, Lake Michigan, Wolf Lake and their tributaries (Indiana-Illinois) was conducted by the United States Department of Health, Education and Welfare at McCormick Place beginning March 2, 1965; and

Whereas, The conferees on water pollution control in the Calumet River area and at the South end of Lake Michigan, on January 4, 1966, did introduce a letter dated December 21, 1965, wherein the conferees unanimously agreed that there should be no dumping of dredge materials of any kind in Lake Michigan; and

Whereas, The area used for dumping of dredgings is beyond the jurisdiction of the City of Chicago, thus, the dumping areas are solely within the jurisdiction of the Federal Government; now, therefore,

Be it resolved, That the City of Chicago hereby petitions the Federal Water Pollution Control Administration acting under the provisions of the Federal Water Pollution Control Act Public Law 660 as amended by the Federal Water Pollution Control Act Amendments of 1961 (PL 87-88), and by the Water Quality Act of 1965 (PL 88-234), to take immediate steps to cause the dumping of all dredgings and any other waste materials into Lake Michigan in areas beyond the jurisdiction of the City of Chicago, to be halted and terminated for all time; and

Be it further resolved, That the City of Chicago hereby petitions the Corps of Engineers, U.S. Army to study alternate methods of disposing of all dredgings; and

Be it further resolved, that the copies of this Resolution be transmitted forthwith to the honorable conferees on the matter of pollution of said waters viz. Mr. H. W. Poston, Mr. Blucher A. Poole, Mr. Clarence W. Klassen, and Mr. Frank W. Chesrow, and to the Honorable PAUL H. DOUGLAS and the Honorable EVERETT M. DIRKSEN, U.S. Senators from Illinois, and to each and every Congressman of the Illinois delegation in the United States House of Representatives; to the Honorable Stewart Udall, Secretary of the Department of the Interior; to the Honorable James Quigley, Administrator of the Federal Water Pollution Control Administration, to the Regional Office of the Federal Water Pollution Control Administration headquartered in Chicago, to the Honorable Otto Kerner, Governor of Illinois; and to Brig. General Roy T. Dodge, Division Engineer, U.S. Army Corps of Engineers; and

Be it further resolved, That this Resolution be spread on the record and printed in the Journal of Proceedings of this date.

STATE OF ILLINOIS,
*County of Cook, ss.*

I, John C. Marcin, City Clerk of the City of Chicago, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of that certain resolution adopted by the City Council of the City of Chicago at a regular meeting held on Thursday, the twenty-fifth (25th) day of August, A.D. 1966.

Witness my hand and the corporate seal of the City of Chicago this thirtieth (30th) day of August, A.D. 1966.

JOHN C. MARCIN, *City Clerk.*

## EVELYN DUBROW, REPRESENTATIVE OF THE INTERNATIONAL LADIES GARMENT WORKERS UNION

Mr. BASS. Mr. President, one of the loveliest people on Capitol Hill and, I think, one of the most effective, is a petite lady who is almost an institution. Her name is Evelyn Dubrow, but we all know her by just "Evvie." As a representative of the International Ladies Garment Workers Union, she has a wide range of interests that brings us into constant contact with her. These times are some of the most enjoyable and refreshing that I experience. Recently the Memphis Press-Scimitar carried an article describing her and her duties. I ask unanimous consent that it be included in the RECORD.

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

FEMALE LOBBYIST EVELYN DUBROW—EAR-BENDER, BACK-PATTER AND SENATOR-HUGGER

(By Stanley Levey)

WASHINGTON.—Almost any working day on Capitol Hill a short, bird-like cheerful woman clicks her way through the halls of Congress, buttonholing a legislator here, bending an ear there.

Her name is Evelyn Dubrow and she is a rare commodity in Washington—a lady lobbyist. She actually transacts a good part of her business in congressional lobbies, and in making her self-appointed rounds she wears out 24 pairs of shoes a year.

Miss Dubrow has been lobbying at the national level since 1959 for the International Ladies Garment Workers Union, an organization dedicated to adorning the female form with union-made garments. She also works with the parent AFL-CIO's lobbying task force. She is equally at home in a smoke-filled room with a drink in her hand and in a deep-think session of intellectual do-gooders.

BUSY

At the moment she has an action agenda that reads like the program for the Society for Promoting the Tranquility of Everybody. She is urging Congress to pass a strong "truth-in-packaging" bill, a generous minimum wage law, a tough civil rights bill with a broad open housing provision and other measures dealing with social welfare and education.

EMBRACE

Sen. JOSEPH CLARK, D-Pa., was embraced by Miss Dubrow on his way to the meeting. She and Sen. JACOB JAVITS, R-N.Y., held a brief hallway conference. Sen. ROBERT KENNEDY, D-N.Y., exchanged a few friendly words.

Next she boarded the subway for the Senate reception chamber. There she sent in a card asking Sen. JOHN PASTORE, D-R.I., to come off the Senate floor, which he did. They briefly discussed a $927,000 appropriation for the Health, Education, and Welfare Department. He assured her of his support but said he did not "want to carry the ball." Miss Dubrow seemed satisfied.

The next stop was the Senate office of Vice President HUMPHREY to reclaim an earring she had left there a few days before while making a free phone call. The trip was not wasted. While there she learned from a

staff member that the minimum wage bill might not come to the floor until next month. Then, into a cab for a leadership conference meeting of pro-civil rights groups near the capitol.

PERSUASION

After a discussion of the possibility of a civil rights filibuster and reports on how individual congressmen stood on the bill. Miss Dubrow walked back to the House and into a hearing on maritime matters by the House Rules Committee. She persuaded Rep. RICHARD BOLLING, D-Mo., to step into an adjoining room where they spent 20 minutes talking about the civil rights bill. BOLLING was gloomy.

Miss Dubrow recovered some of her optimism by stopping in at the Speaker's office where she was warmly welcomed and where she made another free telephone call. Then for a half hour as representatives drifted into the House, she called out greetings, asked for votes on the measures she was promoting, slapped backs, had hers slapped, thanked legislators for votes, had her hand kissed and held a series of hallway conferences.

After lunch at the Capitol Hill Democratic Club, she was off and running again. First a session with Sen. ROBERT KENNEDY's legislative assistant, Peter Edelman. Then a talk with Rep. JAMES MACKAY, D-Ga., and another with Sen. HARRISON WILLIAMS, D-N.J. Miss Dubrow finds late afternoon office visits productive. In between she ran an errand for a Danish radiologist who is having visa problems.

The rest of Miss Dubrow's work consists of reporting to union headquarters in New York by telephone, doing field work in behalf of candidates supported by labor, making speeches, turning out a newsletter for union leaders, attending workshops and managing her social life, which is almost as busy as her daily schedule.

She changes her shoes twice a day.

She prefers to lobby for bills rather than against them. She says she gets "irritated" when she has to work on measures that have "an anti-labor quality," and she draws the line at anything that smacks of patronage. She has a reputation on the hill as a dogged, realistic and politically astute operator.

STARTS AT NINE

On a recent one-day tour of duty Miss Dubrow left her office-residence at the Congressional Hotel, a block from the Capitol, at 9 a.m. Her first stop was the Senate Labor Committee in the new Senate Office Building where she quizzed staff members about the pending minimum wage bill. She was greeted warmly as "Evvie" and countered with first names herself. She learned the disquieting information (for her) that the bill faced many amendments.

Next she drifted out into the corridor to buttonhole a few Senators on their way into a closed meeting of the Labor Committee. To Senator PETER DOMINICK, R-Colo., she said: "I hope you'll vote for the strongest possible minimum wage bill." He suggested that she might not agree with his definition of "the strongest." She laughed nervously.

## INVITATION TO VISIT ALABAMA

Mr. SPARKMAN. Mr. President, on several occasions I have invited Senators to come to Alabama. I have invited your constituents to come to Alabama to see this great State. I have told you about some of the reasons for coming to Alabama, some of the things which you ought to see in Alabama.

Today I want to talk about two Alabama cities, less than a hundred miles apart, which deserve a visit from anyone who wants to know and understand America.

One of these cities is Montgomery, a city which was founded in 1817 on the banks of the Alabama River in south-central Alabama. It became a great cotton-marketing center, because the river steamboats could come up to Montgomery almost the year round from Mobile. During some seasons, the steamboats went on up the Alabama and Coosa as far as Wetumpka, which was a flourishing young city in the years before the war.

Montgomery was an enterprising city, and before a great many years it became the capital of Alabama, winning this place over Wetumpka. This was after the capital had been, in the territorial days, at St. Stephens, at Huntsville, at Cahaba, and at Tuscaloosa. It was to this small southern city that the men of the South journeyed in the latter days of 1860 and the first months of 1861 to discuss the necessity of seceding from the Union. From a Montgomery office building on court square went the telegraphic message to fire on Fort Sumter in Charleston Harbor, and in April of 1861 Montgomery became the capital of the Confederate States of America.

Montgomery is a place rich in history, and Alabama has provided, in a fine building just opposite the State capitol, a great collection of archives of the State and the Confederacy. Historians find the Archives and History Building invaluable, and tourists find its exhibits of great interest. Adjoining the Archives and History Building is the First White House of the Confederacy, now a museum. I commend these, and the spacious capitol itself, to every visitor to Alabama.

Alabama's State capitol is a building of simple beauty unmatched anywhere. Fine Greek columns ornament three sides of the building. This building once housed all of the business of the State government, but nowadays it is surrounded by massive buildings which hold the various departments of government. The capitol, situated at the head of Dexter Avenue, glistening white in a frame of old trees, is a sight that thrills every Alabamian. I think that it will thrill you.

Some Montgomery citizens had a major role in the founding of another city, some hundred miles to the north, Birmingham. In an area where all the ingredients for steelmaking were found in contiguity, they founded Birmingham in 1871, and the city has grown and prospered ever since. The hills around and within Birmingham abounded in coal, iron ore, and limestone. Water was plentiful. It was a natural, and it worked.

Today, Birmingham is one of the South's greatest cities. It has fine convention facilities, outstanding cultural attractions, great colleges and universities, and one of the finest medical centers in the world.

From the top of Red Mountain, Birmingham is a glistening jewel at night. Day or night the view is breathtaking as one drives into the city from the south, or from almost any approach.

Steel is still important in Birmingham, but today diversification has created a stable base for a prosperous city that is looking ahead to even more greatness. I am working now with the leadership of Birmingham and Jefferson County to help this city to have even more to offer in the years ahead.

Tourists in Birmingham will want to visit the Jimmy Morgan Zoo, an authentic Japanese Garden including the tea house which was a part of the Japanese exhibit at the 1963–64 New York Worlds Fair, and the fine botanical garden in Lane Park. It is the seat of Samford University, the Medical School of the University of Alabama, Birmingham-Southern College, and Miles College.

Come and get acquainted with Alabama, including Birmingham and Montgomery. Montgomery calls itself a "capital city." Birmingham says, "It's nice to have you in Birmingham."

I say you will enjoy them both.

## TRIBUTE TO IVAN ALLEN, MAYOR, ATLANTA, GA.

Mr. KENNEDY of New York. Mr. President, in recent weeks, riots have come to Atlanta—as they came in previous weeks and months to cities all over the Nation.

Ivan Allen, during these difficult days, has been a tower of strength and leadership for his city. When the disturbances began, he went directly to the scene of the trouble. When violence threatened, he did not hesitate to meet it with force adequate to contain it and prevent its spread; but he was at the scene himself to control its application. He talked to the people, heedless of danger, and walked among the disturbed crowds urging people to go back to their homes.

He had at all times the support of many leaders of the Negro community and the civil rights movement; this was a measure not only of these leaders, but also of the mayor.

Mayor Allen was one of the first mayors, from any section of the country, to fight for civil rights. Now he has matched that political courage with personal courage of a high order.

He said, of the rioting in Atlanta, that it could not be blamed on any individual or group—that the true cause lies in the festering discontent of centuries of injustice. But his actions demonstrate that whatever laws we pass, however many programs we initiate, however much money we spend, the indispensable basis for peace and progress in the city is leadership of dedicated and courageous men—men like himself. Atlanta, Ga., and the Nation, can be proud of Mayor Ivan Allen.

## RECENT DEATH OF JEFF B. BATES, TREASURER OF SOUTH CAROLINA

Mr. THURMOND. Mr. President, the people of South Carolina were shocked and saddened as a result of the recent death of our esteemed State treasurer,

Jeff B. Bates, who died suddenly on August 17.

A man of splendid character and reputation, Mr. Bates had served as State treasurer of South Carolina since 1940. During my term as Governor of South Carolina from 1947 to 1951, I had an opportunity to observe at firsthand his great ability. A tribute to his capability may be found in the fact that during his entire tenure in office he never once had opposition for his post. He would have been elected to his seventh full term in November.

A true friend, a fine gentleman, a great public servant, he will be missed by a host of friends throughout South Carolina and the Nation. Respected in the country's highest financial circles, his steady hand in fiscal affairs will be sorely missed.

He was a distinguished son of a distinguished family from Wateree, S.C. After graduating from the University of South Carolina, he went on to receive honorary degrees from his alma mater, as well as Clemson University. He was additionally honored as a member of the SAE and Blue Key fraternities.

Jeff Bates served his State and Nation well. He was a member of the Naval Flying Corps in World War I and a commander of a Civil Air Patrol squadron during World War II. In service to his community and profession, Jeff Bates worked long and tirelessly. He had served as president of the Columbia Life Underwriters' Association; the Columbia Kiwanis Club; the National Association of State Auditors, Comptrollers, and Treasurers; the USC Alumni Association—two terms; the Crippled Children's Society of South Carolina; the Educational Foundation of the University of South Carolina; and the Columbia Forum. He also had served as treasurer of the National Crippled Children's Society and as a Kiwanis district governor. He was a recipient of the Distinguished USC Alumni Award for 1965 and listed in "Who's Who in America."

Prior to holding the office of State treasurer, he had served as a member of the house of representatives from 1923 through 1926 and as a member of the South Carolina State Senate from 1935 through 1940. While in that body, he served as a member of the State finance committee. He was temporary president and keynote speaker for the State Democratic convention in 1956.

Under his administration, South Carolina bonds achieved the highest credit ratings that the Wall Street bond markets can bestow, and those who accompanied Mr. Bates as he made his rounds in national banking circles came away high in their praise of this soft-spoken man, who commanded the respect of so many with whom he came in contact.

He was unique in his ability and dedication to the duties of his office.

Mr. President, I ask unanimous consent that the following editorials be printed in the CONGRESSIONAL RECORD following these remarks: "Jeff Bates Personified Ideals," from the August 19, 1966, Greenville News; "Triple-A Treasurer," from the August 19, 1966, The State; "A Name That Stood for Integrity," from the August 19, 1966, Columbia Record; and from the August 19, 1966, News and Courier, "Jeff B. Bates."

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

[From The State, Columbia, S.C., Aug. 19, 1966]

TRIPLE-A TREASURER

Jeff B. Bates worked in the background but he was in the forefront of South Carolina's drive for economic progress over the past 25 years.

As State Treasurer since 1940, he brought to his high but relatively obscure office unquestioned qualities—honesty, integrity, prestige, leadership, dedication, ability.

Such words are applied to many men but they fit very few. Jeff Bates, anyone who knew him will agree, was among the few.

He was the personification of the ideal public servant. To the men in the financial circles that he traveled, he was the image of South Carolina. There is ample proof that it has been an exceptionally good image.

Seven times Bates was nominated for State Treasurer. Never once did a candidate appear to oppose him. That in itself is impressive evidence of the high esteem in which he was held.

Bates became Treasurer at a time when South Carolina's financial fortunes were at a low ebb. Its economy had not fully recovered from the Civil War. Its bonds were difficult to sell.

Bates went forth to sell them. There was no blarney in his pitch—just facts and frankness. It was a winning approach to the hard-headed bankers and bondsmen of New York.

Back home, Bates' sage, levelheaded advice in the councils of government contributed to stable, fiscally sound policies. Such policies gradually improved South Carolina's credit rating and by 1959 a long-time Bates' goal was achieved—a Triple-A rating for the state's bonds.

This rating—held by only a handful of states—has saved millions in interest payments. Even more importantly, it gave the state government an image of soundness which helped attract the industrial growth that has brought about the present unprecedented prosperity.

But Jeff Bates was no cold master of figures. He was a modest man of charm and wit and compassion who gave liberally of his time to worthy causes, particularly the Crippled Children's Society and the University of South Carolina.

Someone said he was "one of the few men in public life of whom no unkind word has even been uttered." Another called him the "Rock of Gibraltar" of South Carolina's government.

Men of such character are too precious to lose. South Carolina lost heavily Wednesday when a heart attack took Jefferson Blakely Bates at age 69.

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[From the Greenville (S.C.) News]

JEFF BATES PERSONIFIED IDEALS

South Carolina has been blessed with many capable public servants, both elected and appointed, over the years. But few if any of them could be considered irreplaceable to the extent that the sudden death of State Treasurer Jeff B. Bates leaves an almost heartbreaking void in the state's executive team.

The loss would have been severe under any circumstances, but it could not have come at a worse time, what with the state facing a period of governmental change and transition and with revenues rising at a rapid rate, producing a compelling imperative that the funds be spent and invested wisely and well.

Jeff Bate's wisdom, his political and financial sagacity, his calm but persuasive manner, the respect he enjoyed from officials at all levels of government and the enormous influence he exerted on all fiscal affairs will be missed in both the high and low councils of state government.

A State Treasurer in South Carolina can be a mere custodian of funds, receiving them as collected by the various agencies and paying them out as directed by legislative appropriations or executive order.

Or he can, as did Jeff Bates, perform as a sound and progressive fiducial official in his own position. He can profoundly influence the decisions and policies of such agencies as the Budget and Control Board, the Board of Bank Control and other such bodies of which he is by law an ex officio member.

Every Governor since Burnet R. Maybank, who appointed him to the office to fill an unexpired term, relied heavily on Jeff Bates in official recommendations and executive action related to finances. And to a man he had their full confidence and gratitude.

Mr. Bates was a master politician because he personified the ideals of a true gentleman and dedication to the service of his state and mankind first. He was never opposed in any of the five or six elections since his short term expired, and he was unopposed in both the primary and the general elections this year.

He was known as a good party man, but avoided extensive political activity. Even so, the quiet word that Jeff Bates thought well of a candidate was worth many endorsements from others.

Due in part to the manner in which he conducted his office, and in part to his sound advice as followed by others, South Carolina, a decade or more ago achieved the highest rating for sound credit that the bond markets and the nationwide financiers can bestow.

Jeff Bates invariably found a ready market and extraordinarily low interest rates for South Carolina's bonds, especially the highway and school bonds which ran into the scores of millions at all times during his tenure.

Jeff Bates was respected in governmental finance circles all over the country. In his own state, this gentle, outgoing bachelor was loved for his nobility of character, his personal charm, the warmth of his friendship and the pleasure of his companionship.

As well as he served in government, he also served in worthy causes, especially that of crippled children for whom he led and labored for many years.

This man cannot be replaced, for he is unique and stands out as the only one of his kind in several generations. But the people who have the power to elect and the officials who have the power to appoint owe it to themselves and posterity to search long and hard for a worthy successor.

Such a man will have to be persuaded and probably will have to make substantial personal sacrifices to take the job.

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[From the Columbia (S.C.) Record, Aug. 19, 1966]

A NAME THAT STOOD FOR INTEGRITY

Jefferson Blakely Bates was his name, but few knew him by his formal appellation, for he was a man whose acquaintances were legion and everyone who knew him was a friend. They knew him as Jeff Bates, treasurer of South Carolina, a name that was synonymous with integrity, courage and honor.

When he was signally honored by a cross section of leading citizens of South Carolina last November 30 at a testimonial luncheon, the most outstanding bond authority of America took note of the date, which was Sir Winston Churchill's birthday, and said:

"Jeff and Churchill have more in common than a date. Although it is a long way from No. 10 Downing Street to Capitol Hill in Co-

lumbia, when it comes to character, Jeff has the same rugged qualities of integrity and bulldog determination that made Winston so famous.

"Everybody in the municipal bond business knows that Jeff Bates would walk a hundred miles if there were no other way to correct some misapprehension about South Carolina's finances. I also believe that if it ever came to that, Jeff Bates would work himself into the grave to pay a South Carolina state debt. This is the kind of character that can't be expressed in graphs and statistics, but which comes out in credit rating just the same."

Largely because of Mr. Bates' personal integrity and unremitting efforts to build and preserve the state's fiscal soundness, South Carolina's credit rating was the highest possible in the United States. So was the rating of Jeff himself among all who knew him in person or by reputation.

His sudden death leaves a huge vacuum on the skyline of leadership in his beloved state.

[From the Charleston (S.C.) News & Courier, Aug. 19, 1966]

JEFF B. BATES

The sudden death of State Treasurer Jeff B. Bates is a tragic loss to South Carolina. He was one of the finest public servants this state has had. The term "public servant" is loosely used these days, but it is an apt description in the case of Mr. Bates.

Gov. Burnet R. Maybank appointed Mr. Bates to the treasurer's post in 1940, a position which paid only $5,000 a year. It has been said that this appointment was Gov. Maybank's most important executive action.

South Carolina's credit rating was pitifully low when Mr. Bates took office. The cost of borrowed money was high for this state. Mr. Bates in effect was the state's banker, safeguarding its funds and investing them profitably. Today, South Carolina has a top credit rating. The public should understand that Mr. Bates was the watchdog and prudent manager who wrought much of the improvement in South Carolina's fiscal affairs. He deserves to be remembered by a people he served with great loyalty and distinction.

## TRUTH IN LENDING MAY BE BOON FOR MARKETING PERSONAL LOANS

Mr. DOUGLAS. Mr. President, a very interesting article appeared recently in the American Banker reporting on a market survey by the American Express Co. According to the article by Mr. James R. Hambelton, this survey suggests that "banks may be able to turn the so-called truth-in-lending bill to their advantage if it is enacted."

Apparently, the survey reached people in higher income brackets and showed that these consumers at least are "acutely aware" of interest rate charges. The article also points out that increasingly credit institutions are making strong efforts to advertise that they are charging less for the credit that they offer.

All this is to the good because it means that there will be competition in the credit marketplace, according to the fundamental principles of our economic system, and this will benefit the consumer as well as the ethical businessman. The article also shows that banks and other credit institutions see the handwriting on the wall; namely, that the public demand for a Federal truth-in-lending law is immense and will lead to enactment of this legislation soon. I ask unanimous consent that this article, entitled "Truth in Lending May Be Boon for Marketing Personal Loans," be printed in the RECORD.

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

"TRUTH IN LENDING" MAY BE BOON FOR MARKETING PERSONAL LOANS

(By James R. Hambelton)

A recent market survey by American Express Co. suggested banks may be able to turn the so-called "truth-in-lending" bill to their advantage, if it is enacted.

The survey showed that in the higher-income brackets, at least, people are acutely aware of interest rate charges. This survey is one reason that American Express, in selling its credit card to banks, is recommending they charge the minimum going rate on best-quality installment loans on the minimum $2,000 standby credit, which is part of the American Express package.

Banks, of course, will have the final say. But American Express points out that in one survey of holders and nonholders of its card, less than one-third believed that a charge of 1½% per month was fair. More than half believed that a charge of 1% per month was fair. In another survey, this time only of cardholders, 62% said a charge of 1½% per month was excessively high.

Where legally permissible, most banks charge 1½% per month on unpaid balances of overdraft, standby credit, and other "instant money" plans. American Express advises, however, that a preferential rate is likely to increase volume.

It says that with its low rate of 1% a month, in contrast to the 1½% charged by a competing card, American Express, is now billing between 90% and 95% of all deferred-payment plane fares.

Moreover, it points out that banks now hold about 54.6% of automotive loans, against 39.4% 10 years earlier. At the same time, the same portion of this market going to sales finance companies dropped to 32.8% from 51.3%.

"Why did the one decline as the other rose?" American Express asks in a new color brochure on its credit card plan for banks. "Several factors seem to be responsible, including the aggressive salesmanship of banks. But one of the more important factors is that the banks' direct auto loan rate has been consistently lower than that of the sales finance companies. Consumers have understood this difference and taken advantage of it."

American Express, of course, has been hammering home the message that it charges much less than its competitors. It has done so in newspapers and magazine ads and in statement stuffers.

A number of banks are thinking of doing much the same, should the truth-in-lending bill be enacted. The bill would require that all charges be stated in terms of a "simple" interest rate—whatever that is. Many financial institutions have fought the bill on grounds that it is virtually impossible to separate the various charges and to come up with a "simple" rate charge that has much meaning.

Others see in the bill an opportunity to clobber the competition posed by sale finance companies and, for instance, department stores, that run their own charge programs, often at remarkably high rates. "It can only make the banks look better," says the president of one Midwestern bank.

He is, in fact, so intrigued with the idea that he has given some consideration to a campaign that would highlight the bank's lending charges—even before the bill is enacted, if it ever is.

His reasoning is that the bank might be able to establish a fine reputation by moving early before it becomes a requirement so that all other banks and financial institutions would be doing the same thing. He has, however, reserved a decision for the time being since he fears the public might not be able to distinguish between his "simple" rates of, say, 12% and the discount rate of 6% at other banks in his marketing area.

The American Express survey does lend substance to the idea of public awareness, but how much of that can be translated across-the-board to all consumer loans is uncertain. The one survey was, after all, for only one highly unusual market—those people with incomes and credit ratings sufficiently high to own an American Express Credit Card. These presumably also would be the better educated and hopefully, better informed. That all people who come into a bank for a loan, or go to a sales finance company are so informed is doubtful.

## DEATH OF FULTON LEWIS, JR.

Mr. THURMOND. Mr. President, early Sunday morning, August 21, 1966, a massive heart attack took from us the noted and esteemed radio commentator Fulton Lewis, Jr. It was with profound sorrow that I learned of the death of my good friend and I wish to pay tribute to him and to his work.

He was highly esteemed by friend and foe alike for his courage, ability, and dedication. The broadcasting industry has lost one of its most articulate and thoughtful commentators; those of us fighting for constitutional principles have lost a valuable and trusted ally; and I have lost a personal friend of many years standing.

Fulton Lewis, Jr., distinguished himself in the broadcasting field by his ceaseless pursuit of truth and justice. He was not so much interested in the news story that everyone else might be clamoring about but chose rather to seek out the big story that had not as yet received the light of public attention. Sometimes these big stories involved little people who were being abused by big government, or overrun by bureaucracy. He never flinched from a story just because persons of power or influence might be involved, and often suffered rebuke for his courage.

Mr. Lewis was a war correspondent during World War II and led the effort to secure galleries for the broadcast media in the House and Senate when gallery privileges had been enjoyed only by the print media.

His career as a broadcaster is now ended and with his family and many friends we share in the sorrow of his passing; but we also share in the pride of a race well run, a fight well fought, and a life fully lived.

Mr. President, I ask unanimous consent that the transcripts of two radio broadcasts honoring the memory of Fulton Lewis, Jr., appearing on the Mutual Network on August 22, 1966, be placed in the CONGRESSIONAL RECORD following these remarks.

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

COMMENTARY BY CEDRIC FOSTER, MONDAY, AUGUST 22, 1966

The massive heart attack that took the life of Fulton Lewis Jr., removed from the radio scene a news man who was a pioneer in the radio broadcasting field in Washington and a man to whom the radio fraternity, nation-wide, is greatly indebted for his unceasing efforts to gain recognition for this media of mass communication.

To me, personally, there is the loss of a friend of more than 30 years standing. Our friendship dated back to the days when the Mutual Broadcasting system headquarters consisted of two or three girls in the office and a manager and program director. That was all.

One could talk on and on about Fulton but to me, knowing him as well as I did over three decades, there are two traits of character that stand out as one thinks in retrospect of his career. First is the intellectual honesty of the man behind that microphone who talked to all America Monday through Friday at seven o'clock each evening. Many there were who disagreed with his political philosophy; none there were, who knew him, who challenged his honesty. Fulton believed what he said on the air and he had the courage to say it, oftentimes when it was not the popular thing to say.

The second trait is that through all the years of his career, starting from scratch at $25 or so a week, to the time when he was a man with tremendous earning power, Fulton Lewis remained, with his friends, unchanged. His friends remained his friends and his advancement, through notoriety and wealth, left him unchanged. Radio owes him a tremendous debt as it was he who forced recognition of radio with seats in the news galleries of the congress.

Each evening Monday through Friday millions of Americans turned to their nearest Mutual station to hear the program that always started the same way . . . "Good evening, ladies and gentlemen, this is Fulton Lewis Jr., speaking to you from the Mutual studios in Washington, D.C. I'll have my news and views for you in just a minute," . . . a program that always ended the same way . . . "that's the top of the news, as it looks from here."

Controversial? Yes, indeed. Fulton Lewis Jr., was nothing else if he were not controversial. He had very pronounced views of national and international affairs. He was a right-wing republican who believed in his heart that that political philosophy was necessary if this republic of ours were to survive with its principles intact, and he gave short shrift to those in republican ranks who followed the so-called "liberal" path in their thinking.

His broadcasts created a tremendous following. It is no exaggeration to say that no broadcaster had an equal following . . . friends and foes in political thinking, alike. Because Fulton Lewis angered people as well as pleased them. But those whom he angered were right back at the dials of their Mutual station the next evening, waiting to be upset once more so great was the hold that he had upon listeners in all walks of life in every state of the Union. I don't have the figures available but memory serves to the extent that Fulton had at one time between three and four hundred commercial sponsors in 3 to 400 different cities on his seven o'clock broadcast and his earning power for the stations and the network ran into millions each year . . . the monies spent by advertisers to have their products identified with him.

The spot at seven o'clock on the Mutual Broadcasting system, if "time," so to speak, could be draped, is now shrouded in black, mourning for a man who voiced for so many years the deepest political feelings of millions upon millions of Americans who heard him over a 30 year span. In that seven o'clock spot he stood unique. No man in radio's history has broadcast for such a period of time in one spot on one radio network. The life career of Fulton Lewis, jr., was spent in radio with the Mutual Broadcasting system. There may be those who aspire to step into his place and some one will take his place. As we say in radio "there'll be no dead air." But whoever so aspires will never fill the shoes of this man who so earnestly believed in the conservative . . . right-wing if you wish to call it . . . who so completely believed in this political theory.

There was a part of Fulton's life that his public really never knew. His devotion to family, to his wife, Alice and to the two children who live on cherishing the memories of their Christmas eve appearances with their noted father. Buddy Lewis, who is Fulton III and Betsy, now married and mother of two of her own . . . Buddy married and a father also. There was the great devotion that Fulton had for his church . . . St. David's Episcopal, a little structure that to me always seemed like something out of a story-book . . . which always seemed to me to be what a church should be. With loving care and great, painstaking labor the organ in that church was the creation of Fulton who sought no more complete relaxation from the problems of a troubled world than when seated at the console.

Fulton Lewis jr., was a Washingtonian, as was his father and his grandfather. He grew up in the nation's capital, went to school here and then on to Charlottesville to the U. of Virginia where he spent two years . . . long enough to write the music for Virginia's great song, the Cavaliers. And the words to that song were written by Henry J. Taylor, himself a commentator in later life, also on Mutual and a life-long friend of Fulton.

The man who spoke over 500 or more radio stations of the Mutual network was a deeply sentimental man who loved his family and his friends and who took the greatest joy in the knowledge that his son, Buddy . . . Fulton Lewis III, had developed sufficient talent and knowledge and understanding to follow in his father's footsteps as a substitute, along with Ken French of Mutual, whenever it was not possible for Fulton to appear on the air.

There were many persons in the radio field who rose to prominence in association with Fulton Lewis, among them Mutual's President Robert F. Hurleigh, who came east from Chicago's WGN to join the Lewis staff and who then rose to head the network, and to save it. Ray Henle, for so many years the voice of "Three Star Extra," substituted for Fulton on vacation and then went on to broadcast his own program. Fred Morrison, many years with Fulton, and later with Three Star Extra, now the man who directs all public relations with the Republican National Committee, is another . . . . Fulton Lewis was endowed with many gifts, the greatest of all, and oftentimes a rare one, intellectual honesty and fearlessness in stating one's belief. We on Mutual will miss him and I have lost a dear friend of almost 40 years.

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[Broadcast of Monday, Aug. 22, 1966]

A TRIBUTE TO FULTON LEWIS, JR.

Good evening, ladies and gentlemen, this is Cedric Foster speaking to you from the Mutual studios in Washington, D.C. with a special program in which we on Mutual honor Fulton Lewis, Jr. We'll hear tributes to Fulton Lewis in just a moment.

During the twenty years prior to June 1937 the music you now hear was the identifying sound on the Fulton Lewis, Jr. commentary on the news. It was heard during the periods where you now hear commercial messages or a public service announcement. This is a musical memory of Fulton Lewis, Jr.

The death of Fulton Lewis, Jr. in Washington on Sunday leaves a great void here at the Mutual network and in the broadcasting world. Scores of tributes have been received by us today.

Here is Stephen McCormick, Vice President in charge of news at the Mutual network.

Mr. MCCORMICK. This is Steve McCormick, Vice President for News of the Mutual Broadcasting System.

I regret to announce that longtime Mutual commentator Fulton Lewis, Jr. passed away early Sunday morning from a heart attack. Mr. Lewis was 63 years old. He'd been with Mutual since 1937. He was widely known as a fearless, courageous and outspoken proponent of the American way of life and its institutions. He was a respected member of the journalistic and broadcasting community—a family man, a churchgoer. I knew Mr. Lewis and worked with him ever since that first day in 1937 when he first came to Mutual. He will be sorely missed by those of us who knew him. He will be sorely missed by thousands of listeners who daily heard his commentary from coast to coast. The memorial service will be held on Tuesday afternoon here in the nation's capital, interment will be private.

Mr. FOSTER. Senate Republican leader EVERETT DIRKSEN from the state of Illinois paid this tribute.

Senator DIRKSEN. I knew Fulton Lewis when I first came to Washington—well over 30 years. I remember his messages on the air and what a great following he had. He was the center of inestimable courage, who said what he thought, who dug out his facts meticulously and had a tremendous impact on the thinking of the times.

Mr. FOSTER. From the other side of the aisle in the Senate came word from Virginia's Senator HARRY FLOOD BYRD, JR.

Senator HARRY BYRD, JR. Fulton Lewis, Jr. made a splendid contribution to the nation. His radio broadcasts and his syndicated newspaper column were provocative and incisive. He cut straight through to the heart of the issue and presented it with clarity and fairness. There is a need for more commentators of the calibre of Fulton Lewis, Jr.

Mr. FOSTER. Mrs. Styles Bridges on the campaign trail in the state of New Hampshire spoke feelingly of Mr. Lewis—a close personal friend for many years.

Mrs. BRIDGES. I am completely shocked and saddened by the news which was announced to the American people yesterday that they had lost a champion of freedom. Personally I am desolated over the loss of a man who was a close personal friend of Styles and mine over the course of twenty-odd years. This is not only a personal blow, but I think a loss to our entire country. Through the dedicated work of Fulton Lewis, Jr., many people were apprised of problems which under normal circumstances they wouldn't even know existed. And his strong voice and dedicated efforts on behalf of his fellow man will never be forgotten.

Mr. FOSTER. From the ABC network in Chicago, a colleague in the radio industry Paul Harvey has this to say.

Mr. HARVEY. Fulton Lewis, Jr. believed in government by the people. He prodded us and cajoled us and spurred us and nagged us and shamed us when he had to, into acceptance of the responsibilities of self-government . . . hanging onto what's left of the Constitution with one hand and fighting off its detractors with the other, he would not let us fail.

If men *are* competent to govern themselves then, in the end, our republic *will* prevail. And tomorrow's historians from that pinnacle looking back will thank God that he was on our side.

Mr. FOSTER. Charles Warren, Director of News for Mutual, Washington, had an intimate association with Fulton Lewis, Jr.

Mr. WARREN. My very close association with Fulton Lewis, Jr. goes back to May 1945—21 years ago, and my very first Mutual network assignment was to introduce Mr. Lewis. Being very nervous on this very first Mutual network show I was put completely at ease in the studio by Mr. Lewis. He said there's nothing to worry about, Charlie, and that all I had to say was there is Fulton Lewis, Jr. and the news.

For the past 21 years I saw and talked with Mr. Lewis every single working day, except of course when one of us was out of the city. I guess the most familiar sight here at Mutual in Washington was to see Fulton Lewis, Jr. walking down the long corridor to the studio with the script in his hand, and at precisely at fourteen after four o'clock. He would saunter by the office and arrive in the studio at 30 seconds before air time. And then it was the same routine at 7:00 p.m. I admired and I respected Fulton and will certainly miss his footsteps down the corridor and the courageous views he expressed and the familiar closing phrase on every single broadcast . . . "and that's the top of the news as it looks from here."

Mr. FOSTER. Fred Morrison, Director of Public Relations of the Republican National Committee was Fulton's closest colleague for many years.

Mr. MORRISON. I think I knew Fulton as well as anyone outside his immediate family, and in all the years I worked with him I never knew him to back away from a story because it might involve persons of power and influence in Washington.

There were many times when a person of less determination might have given up under the avalanche of pressure and actual threats that came from influential quarters, but once Fulton started an investigation of a situation which he felt was unjust he pushed it through to a finish. I don't believe anyone in the history of news reporting ever watched more closely for excessive use of governmental powers—the so-called bureaucrats in Washington, excesses which resulted in injury to the citizens of the country, and I believe his voice was heard by many over-zealous appointed officials of the government.

Fulton's death is a great loss—and not just to those who knew him so well.

Mr. FOSTER. It was Fulton Lewis who advised Richard Nixon to go into the political arena—advise which Mr. Nixon followed. Here is the former Vice President.

Mr. NIXON. Fulton Lewis was one of the most eloquent and effective commentators of this generation. At a time when news commentators both on radio and television have become increasingly bland and dull, he continued to be eloquent, colorful and exciting. No man in America had a more devoted and loyal listening audience than he had. Mrs. Nixon and I were privileged to know him and his family for almost twenty years and we send his family our deepest sympathy.

Fulton Lewis went back to the very inception of the Mutual Broadcasting System to the days when there were many commentators talking on the national and international scenes and one of the best known of all American newsmen on the air—a voice from the past—Gabriel Heater who spoke from Miami, Florida, through WGBS, to Mutual news.

Mr. HEATER. Well I knew Fulton for about twenty years. We worked together on Mutual all the time. I always found him to be a very independent fellow who was definitely committed to the way of life he believed in, which is the very opposite of what I believe in, but we were good friends all the time. We did the election returns together as I remember once or twice. We were on opposite sides of the fence but we always got along fine. I always considered him quite a gentleman.

Mr. FOSTER. The ties that bind men together over a period of thirty years are never broken and those of us who have worked in daily association with Fulton Lewis will always be aware of his presence in the Mutual studios. I personally have a deep loss. My friendship with Fulton goes back to the year 1936 when I started in radio in Hartford, Connecticut, and when Fulton came to Hartford from Washington for a speaking engagement and to originate his evening broadcast from WTHT.

But the great blow, however, falls on Fulton's office staff . . . those devoted people who served him so faithfully. . . . Cleo Grant, who was his right arm, and staunch support in bringing his program to the air every day . . . Bill Schulz who marshaled so many of the facts for his column . . . Rusty Archibald, who so faithfully tended the store . . . Barbara Walker Paine, who was with him for many years . . . and Ken French, who substituted many times for Fulton on the air.

To those and his immediate family—his devoted wife, Alice . . . his children, Betsy and Buddy (Fulton III) remembered by so many for their Christmas Eve performances with their noted father—to all of these, we on Mutual say farewell to a man whose greatest attributes on the air were intellectual honesty and absolute fearlessness—a rare combination in this day and age.

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## TECHNOLOGY FOR LATIN AMERICA

Mr. KENNEDY of New York. Mr. President, I ask unanimous consent that excerpts from the remarks of Mr. Felipe Herrera, President of the Inter-American Development Bank, on the role of the university in Latin America, be printed in the RECORD. President Herrera has suggested the information of regional or subregional centers of research and technology in Latin America. These centers of research and technology would be used for two purposes; to educate the scientists, engineers, and technicians needed for economic development in Latin America; and to develop the technology to meet industrial and agricultural needs of the participating countries.

This idea deserves the careful attention of those concerned about the future of Latin America. I commend it to the attention of my colleagues.

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

EXCERPTS OF REMARKS OF MR. FELIPE HERRERA, PRESIDENT OF THE INTER-AMERICAN DEVELOPMENT BANK, UPON RECEIVING AN HONORARY DEGREE CONFERRED BY THE UNIVERSITY OF AMERICA, OF BOGOTÁ, IN ASSOCIATION WITH THE COLOMBIAN UNIVERSITIES, WASHINGTON, D.C., SEPTEMBER 12, 1966

A half century after the beginning of the "university reform" movement, which was especially vigorous in some of the countries in the southern part of the Continent, Latin America's universities are faced again with a new and challenging situation. Just as our universities perceived, some fifty years ago, that it was necessary to renew the national structures, so too, at the present time, they are confronting the need for changes that will reflect the expansion of the narrow geographic and psychological confines of our present-day communities. And even as our institutions of higher learning have played a decisive part in the accomplishment of urgent national tasks, we should now adapt their education and research systems to a Latin America moving toward unity.

It is sometimes proposed that a multinational Latin American university be established especially for postgraduate studies. With all due respect to this idea, we believe that the problem is much too complex and many-sided to be solved by merely establishing another institution. For this reason, we have often preferred to think in terms of a "Common Market for Latin American Science and Technology," parallel and concomitant to an Economic Community of our countries. Into this common market of knowledge and talent would go the best of our present university accomplishments, and through the coordination of curricula and degrees, the exchange of professors and students, scientific ventures and specialized research, each of the members of the Latin American community would contribute its best minds to the common task of forging an association of countries capable of making its presence felt in the broader world community.

An important factor in an arrangement of this kind is the high cost of research, particularly that which can be applied to economic development and which our current rates of growth and capital formation will not allow us to finance independently on a national basis. We must be realistic enough to recognize that only those countries with a high national income and broad, dynamic markets have the resources to support advanced research projects that will foster the necessary technological advance. Investment in this field in the United States has been growing at an average annual rate of 12 per cent since 1945 and amounted last year to $17 billion, which was 3 per cent of the gross national product, or in Latin American terms, as much as the region's total export trade for two years and more than five times its international reserves. The Soviet Union is devoting 2.5 per cent of its gross product to these ends, and the industrialized countries of Western Europe between 1 and 2 per cent.

Latin America has only 250,000 scientists, which is 0.4 per cent of its economically active population; the percentage in the United States is ten times higher. And this situation is being aggravated by a process whose damaging effects are only now beginning to be perceived: the emigration of specialists in the different fields, education at great effort by our own countries, to centers of greater prosperity. Paradoxically, despite the regional shortage of high-level professional cadres, we are becoming a net exporter of human capital.

And so we should not wonder that the average output of the labor force in the countries of the region is only between 14 and 33 per cent of what it is in countries where science and technology are intensively used. Less than 10 per cent of the Latin America's economically active population is employed in relatively advanced technological tasks, and in many cases they are working for foreign companies. The substantial gap already separating Latin America from the industrialized world is being alarmingly widened by our incapacity to absorb modern techniques. We merely frustrate our people if we demand greater effort and labor discipline from them without, at the same time, being able to offer them up-to-date means of increasing their productivity and income.

In a report recently submitted to the Inter-American Bank by a consulting firm which made a survey of feasible multinational projects in Latin America, the conclusion was reached that one of the most promising areas of activity is regional research to improve agricultural and industrial technology. The report says:

"Existing programs are practically all nationally oriented. A rare exception is

ICAITI, which has been active for about ten years as a regional industrial research institution for Central America. Nation research needs are pressing, and resources for that purpose should be strengthened and not made less able to meet national needs by trying to spread the same resources to cover both national and regional objectives. In order to make maximum possible use of national research organizations and facilities in regional programs, provisions will need to be developed for joint activities, with appropriate financing, which can serve also to strengthen national research efforts. Investigations are needed to show how research skills can be retained within the region; how adequate regional research facilities and institutions can best be established, what their objectives should be, and how their work can be carried on without interfering with national research programs."

We must give thought to a joint enterprise for all the countries of Latin America that would draw on the irreplaceable resources and experience of the United States and other developed countries of the world and break the ground for regional or subregional centers of research and technology built on multinational foundations and tailored to the future needs of the Latin American common market. They would be genuine "poles" of scientific development and graduate training based on the useful experience already acquired by many of our best schools.

Thus, special importance attaches at this time to the declarations of several chief executives who, in reference to the coming meeting of Presidents, have proposed that multinational action in the sphere of education, and particularly university education, should be planned on a hemisphere-wide scale.

New vistas are unfolding for our university systems as participants in the new tasks confronting their peoples. Their response to these demands will not, however, imply the automatic elimination of existing limitations and gaps. It will have to serve as an incentive to the improvement of current forms of organization and operations. Happily, universities do exist in most of our countries which are seriously interested in shouldering every responsibility that is properly theirs, and others are actively engaged in improving their organization and expanding the range of their work. The Inter-American Bank is fulfilling an important purpose here by providing loans to help finance the necessary administrative and academic changes. I would only like to mention some problems which our experience shows to be widespread:

In the first place, in most of the countries, access to higher education remains the privilege of a minority chosen more for the financial capacity of the parents than for the talents, vocations and aptitudes of the students. There are countries in which the university maintains an open-door policy so as to take in a greater contingent of the school-age population. But the success of this policy is greatly limited by the effective capacity of the universities themselves to provide sound instruction. Besides, they are often hampered by excessively large student bodies and structural and administrative deficiencies, which account in part for high drop-out rates.

In the second place, the idea is still prevalent that the purpose of a university is to train high-level professionals in courses lasting five years or more, to the neglect of middle-level professionals. In international experience, the development of the new countries demands larger cadres on the intermediate level, so that the prevalence of that idea results in a pattern of producing human resources unsuited to the needs of society.

Furthermore, and especially in the case of the universities that are changing their academic structures, their continuing emphasis on general education in the early years of their courses, coupled with the high drop-out rates in those same years, results in large numbers of students dropping out and starting life without any specific professional training.

Finally, there is an unfortunate lack of communication between the universities in the region. The well-known "ivory tower" also casts its shadow in this area. However, just as the Latin American universities have much to learn from one another through mutual contact and exchanges—as shown by the experience of this multinational training center, the Inter-American Bank—the universities of the region could profit greatly by opening from a continuing dialogue on their problems and progress.

Gentlemen, this auditorium has been the scene of many important and varied meetings in the life of our institution. Not only the painstaking technical discussions of financial consortiums, but also the lively sessions of our Staff Associations are held here. Here we have signed important contracts, to increase the capital of our Bank or to finance projects vital to the progress of Latin America. In this hall the management periodically reviews the responsibilities and achievements of our regional public institution, and distinguished lecturers or dedicated artists have been heard.

Today this room is being put to a new use: it has ceased to be a place of work of this Bank and has become an assembly hall where the Colombian universities—and especially the University of America—have come to honor the Inter-American Bank by conferring an academic degree on its President, just as they might have done in Bogotá, Barranquilla, Bucaramanga, Cali, Cartagena, Ibagué, Manizales, Medellín, Tunja, Palmira, Pasto, Pereira or Popayán, all of them the seats of illustrious Colombian universities.

We never doubted the appropriateness of naming this hall for that great American, Andrés Bello, whose portrait always graces the gatherings of men of different origins and pursuits. This auditorium, embedded in the heart of a banking institution, maintains the traditions of American and universal humanism and science of that great Teacher. If anything serves to remind us that "while a bank, we are yet something more than a bank," it is precisely the multiplicity of experiences that are lived here.

Today, again, we are confirming the validity of Bello's words when he said in his still relevant address on the inauguration of the University of Chile in September 1843:

"This you know, gentlemen: all truths connect, from those which chart the course of worlds in the depths of space, from those which govern the wondrous agencies of motion and life in the physical universe, from those which trace the structure of the animals, the plants, of the inorganic mass on which we tread, from those which reveal the innermost secrets of the soul on the mysterious stage of consciousness, to those which express the actions and reactions of political forces, to those in which morality is immovably anchored, to those which determine the precise conditions for the sprouting of the seeds of industry, to those which inspire and give life to the arts. Advances on all lines call to one another, concatenate and drive each other forward. And when I say advances on all lines, I include, of course, advances in the moral and political spheres."

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## TRUTH IN LENDING

Mr. DOUGLAS. Mr. President, I was very encouraged to see an article on the truth-in-lending bill by the columnist Margaret Dana in the Manchester, N.H., Union Leader for Monday, August 29, 1966. Her article points out that Massachusetts has recently enacted two consumer protection bills which contain truth-in-lending provisions as well as other protections in the credit field. She correctly points out that consumers are increasingly demanding disclosure of credit costs and other standards of fair play. The author concludes that:

> A Federal truth-in-lending law would seem to be more sensible and make things simpler for lenders, consumers and regulating agencies alike.

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

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

LEARN WHAT TRUTH-IN-LENDING BILL MEANS TO YOU AND YOUR SPENDING

(By Margaret Dana)

If anyone should ask you what you think of the "truth-in-lending" bill which Sen. PAUL H. DOUGLAS has sponsored in Congress for years, what would you say? If, going a step further, someone asked you to explain what it's all about, could you do it?

Consumers should understand this bill and form responsible opinions about it now, if never before, because word is going around that the bill at last has a chance of being heard, even of getting out of committee to give Congress a chance to vote on it. In theory, your Senators and Representatives vote as the majority of you want them to. So get your opinions ready.

What is this "truth-in-lending" bill? Briefly, it would require that all credit transactions include a plain, truthful statement as to how much that credit actually costs.

There are more issues involved, of course, than that. But similar "truth-in-lending" legislation is either being discussed in many states or has actually been enacted. Massachusetts, for instance, this year passed a real landmark bill which may prove to be a model for other states—and which eventually may be duplicated in Federal legislation.

The Massachusetts law requires retail installment contracts (except revolving charge accounts) to state the finance charge in both dollars and as a simple annual percentage rate. Advertising of credit rates must also state the true annual percentages.

The new law also includes a one-day "cooling-off" period during which consumers may cancel an installment contract if the contract was signed somewhere other than at the seller's place of business. This provision is to help consumers who get tangled up in high-pressure door-to-door salesmanship and need time for second thoughts.

Other provisions of the law are: "Balloon" payments are outlawed; consumers can get annual statements of finance charges for tax purposes; on revolving charge accounts, in determining the unpaid balance, consumer payments during the billing period must be deducted before credit charges can be reckoned.

A number of states have parts of credit legislation already on their books. Delaware and California, for instance, limit interest charges to a simple 10 per cent interest per year. Twelve per cent is considered the top by those concerned with the consumer's side in all this.

Pennsylvania has been arguing a legislative proposal for truth-in-lending that would permit charges from 19 per cent up. Lenders generally favor this.

The fact is that consumers are increasingly demanding better regulation of credit charges on the basis that since you "buy" credit and shop for it just as you might shop for any other commodity, you need to know exactly what each type of loan will cost.

The rule of thumb is that most credit costs, in true annual interest, about twice what it is represented to be. A bank loan, for example, costing $4.50 to $6 per $100 is not obtained at an annual rate of 4 to 6 per cent but at a simple annual rate of 8 to 12 per cent.

But there is a possibility that a patchwork of laws differing from state to state would complicate the problem unbearably. So a Federal truth-in-lending law would seem to be more sensible and make things simpler for lenders, consumers and regulating agencies alike.

Incidentally, if you want a fairly simple guide to make credit charges and terms more understandable, you can buy for five cents a leaflet called "Consumer's Quick Credit Guide" from the Government Printing Office, Washington, D.C., 20402. In ordering it there, give the title and this number: A I.II-3:C86.

## CIVIL RIGHTS ACT—CLOTURE MOTION

Mr. COOPER. Mr. President, the motion which will be before us later today will not be a vote on the merits of the proposed civil rights bill—or any section of it. It will be a vote whether debate shall be cut off on the motion to bring up the bill.

I shall vote against cloture at this time. There has been no debate upon the bill thus far. And it is accepted in the Senate that even if cloture should prevail, there will be no final vote on the bill at this session. A filibuster would ensue, the bill then would be laid aside after a time to take up the remaining appropriations bills and the proposed tax bill recommended by the President.

We know that this bill, important as it is, and all the amendments which have been submitted to it, will not be voted on until the next session of the Congress.

I need not point out that I have voted for every civil rights bill during my service in the Congress. I have not merely voted for these bills, I have introduced bills on voting rights, school desegregation, public accommodations—which were later incorporated in bills passed by the Congress.

I was one of the floor managers of the civil rights bill of 1964, which included provisions dealing with the above enumerated rights, and with fair employment.

I must say that some of the provisions of this bill need thorough consideration, and this bill cannot receive full consideration at this session of the Congress, now drawing to a close.

I think it better for all concerned that this bill be taken up when there will be time for an objective and full debate, and actual voting on amendments and the bill itself.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

## MRS. MARY T. BROOKS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which is S. 3553.

The Senate resumed the consideration of the bill (S. 3553) for the relief of Mrs. Mary T. Brooks.

## CIVIL RIGHTS ACT OF 1966

The PRESIDING OFFICER. The pending question is on agreeing to the motion of the Senator from Michigan [Mr. HART] to proceed to the consideration of the bill (H.R. 14765) to assure nondiscrimination in Federal and State jury selection and service, to facilitate the desegregation of public education and other public facilities, to provide judicial relief against discriminatory housing practices, to prescribe penalties for certain acts of violence or intimidation, and for other purposes.

Mr. DIRKSEN. Mr. President, I suggest the absence of a quorum. This will be a live quorum.

Mr. MANSFIELD, Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Illinois has the floor.

The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Leg. No. 252]

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|---|---|---|
| Aiken | Gruening | Mundt |
| Allott | Harris | Murphy |
| Anderson | Hart | Muskie |
| Bartlett | Hartke | Nelson |
| Bass | Hickenlooper | Neuberger |
| Bennett | Hill | Pastore |
| Bible | Holland | Pearson |
| Boggs | Hruska | Pell |
| Brewster | Inouye | Prouty |
| Burdick | Jackson | Proxmire |
| Byrd, Va. | Javits | Randolph |
| Byrd, W. Va. | Jordan, N.C. | Ribicoff |
| Cannon | Jordan, Idaho | Robertson |
| Carlson | Kennedy, Mass. | Russell, S.C. |
| Case | Kennedy, N.Y. | Russell, Ga. |
| Church | Kuchel | Saltonstall |
| Clark | Lausche | Scott |
| Cooper | Long, Mo. | Simpson |
| Cotton | Long, La. | Smathers |
| Curtis | Mansfield | Smith |
| Dirksen | McCarthy | Sparkman |
| Dodd | McClellan | Stennis |
| Dominick | McGovern | Symington |
| Douglas | McIntyre | Talmadge |
| Eastland | Metcalf | Thurmond |
| Ellender | Miller | Tower |
| Ervin | Mondale | Tydings |
| Fannin | Monroney | Williams, N.J. |
| Fong | Montoya | Williams, Del. |
| Fulbright | Morse | Yarborough |
| Gore | Morton | Young, N. Dak. |
| Griffin | Moss | Young, Ohio |

Mr. INOUYE. I announce that the Senator from Indiana [Mr. BAYH] and the Senator from Washington [Mr. MAGNUSON] are absent on official business.

I also announce that the Senator from Arizona [Mr. HAYDEN] and the Senator from Wyoming [Mr. McGEE] are necessarily absent.

The PRESIDING OFFICER. A quorum is present.

The junior Senator from Illinois has the floor.

Mr. DIRKSEN. Mr. President, I suppose I should feel flattered by these frequent allusions in the press and elsewhere to the role I am supposed to assay in respect of this struggle on the Civil Rights Act of 1966.

Let me freely confess that I am no Atlas. I am not much good at juggling. I seek only to do and to perform the role according to my conscience, and that is all.

I will not be frightened from that course.

There was a rather interesting colloquy on the Senate floor yesterday. Perhaps it is just as well that I did not hear it. However, the point was made that they were trying to frighten me.

Well, Mr. President, I do not scare. I have not been frightened since I climbed into a balloon basket and out of the trenches on the morning of November 11, 1918. I had had my baptism of fire. If there was any fear in me, it was gone at that time.

Those who have intimated that the President of the United States would perhaps scare me and dissuade me from my course are very much mistaken.

I must say frankly that the President called me yesterday afternoon, and I went to the White House at 6:30. The distinguished majority leader and the Attorney General and the President and I were there. I never put words in the President's mouth, but I said:

> Mr. President, from the day I saw the first copy of the original text of the Civil Rights Act of 1966 and had an opportunity to examine it, I asserted my opposition to it. I have not retreated one step from that position from that day to this. And, if it needs further implementation, Mr. President, I do not intend to retreat one step, because this is a package of mischief for this country if I ever saw one.

We will be voting on cloture today. Nobody will ever make the argument that there have been a great many speeches, that they have been redundant and tautological, and that we just plowed the same furrow over and over. There have not been more than a half dozen speeches on the bill, and in the main they have covered only the two jury titles and nothing more.

There have been some brief overall summaries or surveys, but they did not deal with a great many of the elements contained in the bill. That is particularly true of title IV which deals with fair housing and open occupancy.

Mr. President, I sometimes wonder where we are going in this whole field of civil rights.

I once made a speech in Detroit, and before I made the speech, they wired me for the subject which I would discuss. I sent back a wire and informed them that the subject would be "Quo Vadis?" The sponsor of the meeting—and may I say it was the Detroit Economic Club—wired back and said: "What does that mean?"

I sent them another telegram saying: "Quo vadis, Domini?" They wired back and said: "We are still in the dark."

I wired them back, saying: "You ought to read your Scripture in the original Latin, because that means: 'Whither goest thou, Lord?'"

I sometimes wonder, "Quo vadis, civil rights?" I wonder where we are going in this field in view of all the strange things that have been happening for quite a long time.

The chanters are singing and demonstrating in different areas of the country.

Paperback volumes reach my desk under quaint titles like, "We Can't Wait."

It reminds me of a distinguished preacher a number of years ago who was a man of national repute. He was pacing in his study one morning when a friend dropped in. The friend asked, "What is the matter with you?" The minister said, "I am in a hurry, and the Lord isn't."

I think some people are in an undue hurry, but maybe there are a lot more people who are not in a hurry and who want to see pretty clearly where they are going.

I have been reminded of my role in the civil rights bill of 1957. I had something to do with it. When we set up the Civil Rights Commission the first time, we really dealt in broad gage fashion with this subject for the first time in a period of 82 years. We not only provided a Commission, but we also set up a Division in the Department of Justice to look after civil rights affairs, and we provided preventive relief in rights cases.

We had quite a discussion then about jury trials which involved criminal contempt.

That bill was signed into law on September 9, 1957.

The delegations of ministers and priests and rabbis and the like that have been forming a steady line to my office ask: "How can you do what you are doing now in view of what you did in 1957?"

I am reminded of the role I played in the civil rights bill of 1960. I joined with the distinguished majority leader who now graces the White House when we picked out a vehicle in the form of a bill to take care of funds for the Stella School District in Missouri, and we hitched the Civil Rights Act of 1960 onto that vehicle.

We had 9 days of round-the-clock sessions, and when I slept on the divan in my office and the bell rang, it sounded as if the Pennsylvania or the Baltimore & Ohio Limited Flyer was going down the corridor.

That is never a very happy experience, but we stayed at it. We had 37 days of debate. We renewed the Civil Rights Commission. We provided criminal penalties for bombing and for bomb threats. We provided criminal penalties for cases involving an obstruction of court orders. We provided criminal penalties for cases involving mob action. We empowered the judges to appoint referees to aid Negroes in registering.

That bill was signed into law on May 6, 1960.

They say: "You were instrumental in the Rights Act of 1957, and you took a leading part in the act of 1960. How can you assert the position that you take now?"

Then we go to 1964. That is when the majority leader and I worked on the rights bill. The distinguished majority leader, from Montana, is a great Senator and one of the most tolerant, charitable, and one of the sweetest persons I have ever met, with whom it has been a pleasure to work and cooperate in order to get a rights bill. He knows, the distinguished Vice President of the United States knows, the Attorney General knows, the subcommittee of the Committee on the Judiciary knows, not the days or the weeks but the months that we sat around the table in room 230, my Capitol office, on this corridor. There we sweated and strained, early and late, in order to beat out on the anvil of discussion and controversy a bill that would be acceptable to the country, that would be workable and practical and feasible, and it has stood up. It was signed into law on July 2, 1964.

We had 57 days of debate. Then we had a cloture vote, and that cloture vote prevailed. It prevailed in part because the minority leader got on his knees to Members on this side and said: "Did I go to your State and campaign for you?" "Yes, you did." "Now, pay me back. Pay me back with a vote."

That is how we got cloture on the act of 1964—and it was signed into law.

Then, in 1965, we had another bill. That was the one dealing with voting rights. We had many conference sessions: the problem of the Puerto Ricans in New York, the problem of poll taxes.

Many knotty difficulties had to be ironed out, but by patient labor in one of the committee rooms downstairs, on this side of the Senate, we ironed it out, and the voting rights bill is in the law today. And the minority leader had some part in it.

They say: "How can you, under those circumstances, assert the position that you are taking now with respect to the Civil Rights Act of 1966?"

They may say all these rough things. They may say that DIRKSEN is trying to be wooed. No, history will not say it. They say DIRKSEN is trying to be coaxed. History will not say it. They say DIRKSEN is expecting something. He is not expecting a thing, and he would not take it if it were offered, not even a Federal judgeship. Dear as that may be to the hearts of people, it is not to mine. I am not a judicial officer; I am not a administrative officer.

They had me running for Governor in my State long ago. I might have been elected. I said, "No soap." That is not my field. This is my field. The people of my State and the good Lord have sustained me here, and I am going to carry out my responsibility as I sense it.

So, no matter what is said now in the contemporary dimension, I am quite confident as to what history will say.

I think we should take a look at some of the argument that has been adduced here, because it is very interesting. The first thing I would say is that many things ought to be carefully discounted. I do not see my distinguished colleague from Illinois in the Senate at the moment, and I make no point of it; but he appeared before the Senate committee on this bill, and I want to read one long paragraph of what he said about integration in south Chicago. This is Senator DOUGLAS speaking, as shown on page 259 of the hearings. The distinguished Senator from North Carolina [Mr. ERVIN] was doing the quizzing, and this statement was in response to it. Senator DOUGLAS said:

It so happens that I live in the Hyde Park-Kenwood neighborhood in Chicago and have for nearly a half century. This was once an upper middle class completely white community. It is now probably the most racially integrated neighborhood in Illinois and possibly in the Nation. Our experience has, on the whole, been good. We have had our troubles, of course, but mostly caused by people from outside the neighborhood. But the community is composed in the main of men and women who have wanted to make desegregation work, and who have tried to work out living together peacefully and cooperatively. We have largely succeeded although, of course, we have not established a Utopia. I am proud to have played some part in this desegregation, because I felt one should practice in one's own life what one tries to prescribe by legislation. There are, however, unfortunately residential communities in Illinois and, indeed, in the Chicago area which are to all intents and purposes segregated and where the schools are, in consequence, also segregated. I do not think that many people in these communities will welcome my testimony. I ask these good people to study the experience of Hyde Park-Kenwood which should eliminate many of their fears. We in Hyde Park-Kenwood would not like to go back to the old order.

Well, that sounds pretty good. But, as I have said, one must be careful about testimony.

At the University of Chicago, where my distinguished colleague was a member of the faculty—the school is located in that area, around 60th Street at the Midway—there is another distinguished member of the faculty. His name is Dwight Ingle, and he is the head of the Department of Physiology in the University of Chicago.

I ask unanimous consent to put Dr. Ingel's statement in its entirety in the RECORD.

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

[From the U.S. News & World Report]

CHICAGO STORY: AFTER NEGROES MOVED IN—THE TRIALS OF A COMMUNITY

(How are city neighborhoods really affected when large numbers of Negroes move in? Chicago's Hyde Park area seemed to provide one answer to that question. For years it was held up as a shining example of racial harmony. Now a distinguished scholar who lived through that experiment comes up with a different answer.)

From the autobiography of a noted scientist, just published, comes a new evaluation of a widely heralded experiment in neighborhood integration of the races.

The scientist is Dr. Dwight J. Ingle, chairman of the department of physiology at the University of Chicago.

The neighborhood described in his autobiography, "I Went to See the Elephant," published by Vantage Press, is one in which he lived for many years—Hyde Park, adjoining the University.

It was in this area, heavily infiltrated by Negro slums, that Dr. Ingle and other whites joined with Negro leaders several years ago in an effort to halt blight that was threatening the future of the University itself.

Over the years, this effort has been held up as a model of peaceful integration to be followed by urban neighborhoods across the nation.

Dr. Ingle, however, casts much doubt on this evaluation.

After years of campaigning to clean up the neighborhood, he wrote, he and his family decided to move out.

By that time, Dr. Ingle said, his neighborhood had become unsafe for his wife and daughters. Broken glass and other debris

littered the area, and it had become a hangout of narcotics addicts.

BOASTING TOO SOON?

"I have contempt," this scientist said, "for individuals who spent a short time working in the Hyde Park redevelopment program and went away to boast in books and articles of how Hyde Park had solved its racial problems."

As he tells it, homeowners of both races on his block in Hyde Park organized themselves to keep it clean. Three of four Negro homeowners on his block co-operated. The fourth converted his house illegally into tiny apartments. Other Negro owners in adjoining blocks followed suit, opening the way to hordes of tenement dwellers.

In Dr. Ingle's view, population pressure was not solely responsible for this development.

"There were dozens of vacant apartments available to Negroes in Hyde Park," he wrote, adding, however, that "many Negroes will crowd together to save rent money in order to drive a Cadillac."

PROFITS FROM SQUALOR

In a city like Chicago, it is virtually impossible to stop illegal conversion of good buildings into tiny apartments that make bigger profits for landlords, Dr. Ingle said. He added:

"Some slum owners and some unscrupulous real estate men are Negroes who are as anxious to make a fast buck as non-Negroes. Some of the worst exploitation of the Negro in South Chicago was by the author of a Broadway play concerning Negro slum dwellers in South Chicago."

As more and more Negroes poured into Hyde Park, Dr. Ingle wrote, this was the result:

"Robbery, rape, stabbings and murder were common in Hyde Park. Lesser crimes were purse snatching and thieving. Forty-seventh Street was a center of dope addiction. Some buildings in our neighborhood were centers for the distribution of narcotics. Neither Geneva [his wife] nor the girls were permitted to go out without escort after dusk.

"A number of our friends were victims of robbery and attacks. Children were beaten and robbed between home and school. . . .

Empty whiskey bottles were thrown onto our driveway and into our yard almost nightly. They were frequently broken before we could dispose of them. Our tires were several times cut by broken glass. There was a storage garage across the alley in back of us where a crowd of Negro men hung around talking loudly in obscenities most of the day and much of the night. Sometimes I overheard colored men and boys make lewd remarks to girls and women along the street. Prostitution flourished in the apartment building across the street."

TROUBLE FOR UNIVERSITY

Even before this, Dr. Ingle said, some members of the University of Chicago faculty had begun to move away because of the decline of neighborhood standards. As conditions worsened, the exodus continued.

Dr. Ingle cited reports that University trustees at one time seriously considered abandoning the school's physical plant and rebuilding elsewhere.

"This would have been the wise thing to do," Dr. Ingle said in his book. "The University was gravely injured, perhaps irreparably, by the decline of the neighborhood."

"RANDOM" INTEGRATION

The University of Chicago scientist was especially critical of what he called "random" mixing of races without regard to neighborhood standards.

"I am personally more concerned about the behavioral standards of my neighbors than about their race, education or socioeconomic status," Dr. Ingle wrote. "But relatively few Negroes behave as good neighbors. They must be given a good environment from birth if the handicap of their cultural heritage is to be removed."

As an example of what could be achieved, he pointed to the Lake Meadows Housing Project on the near south side of Chicago. There, Negro slums were cleared away and replaced by fine apartment buildings.

This project, Dr. Ingle said, is integrated. But renters are carefully screened, a ratio is maintained between whites and Negroes, and integration is voluntary. Buildings are described as well-maintained and peaceful.

In Hyde Park, Dr. Ingle said, "so-called liberal and religious groups" opposed selective integration. Some maintained that "we must build a classless society and all live together as brothers."

IMPOSSIBLE OBJECTIVES

After several years of watching the experiment in Hyde Park, Dr. Ingle concluded:

"All of the individual leaders and organizations concerned with upgrading the neighborhood tried with little success to deal with this problem. When efforts failed, I knew that the objectives of the Hyde Park Renewal Project could not be fully achieved."

At that point, Dr. Ingle and his family sold their house and moved to another neighborhood where they bought a co-operative apartment.

NEIGHBORHOOD PATTERNS

Dr. Ingle reached these conclusions:

Chicago, he said, would be corrupt even if the Negro were not there—but "crime rises sharply when the neighborhood changes from white to Negro."

Similarly, he found, Chicago would be filthy even if it had only white inhabitants. But "filth in the streets and in buildings increases when the neighborhood changes."

This noted scientist went on to say:

"We were living in the center of a cruel, raw, sociological problem. Although the sins of white people against the Negro are infinitely greater than the sins of the Negro against the white, the problem is not fully described in terms of the image that lay press has tried to create: 'Negroes good, white bad.'

"The hate and violence which flare when the Negro comes to an all-white neighborhood should be understandable to any psychologist. Families who have acquired a home of their own in a clean, pleasant neighborhood and have invested their life savings in the property see their way of life threatened by the Negro. Although the first Negroes may be equal to the average white family in education, intelligence and standards of citizenship, it is feared that those who follow will threaten comfort, security and way of life."

THE NEGRO'S SIDE

Dr. Ingle added:

"We also learned something about the problems of the individual Negro who does achieve good citizenship. Most people treat him as a second-class citizen. He becomes conditioned to hate or at least suspect all whites on the basis of experience with the majority. It is difficult to find a decent home, and a place in the sun for his children. . . .

"I believe in equal rights regardless of race or creed. And yet I believe that forced desegregation is psychologically and morally wrong. . . . I doubt that forced desegregation has achieved true integration in any instance. The first can coexist with racial hatred; the second cannot, for it requires mutual respect among people who are different."

Mr. DIRKSEN. Mr. President, when one reads this, he will discover that there is another question involved in this matter besides color. That question, Mr. President, is conduct. That is what frightens people. We have missed the point.

What does Dr. Ingle say? This is also the Hyde Park-Kenwood area. He said it got so bad that the trustees had thought about moving the University of Chicago. Think of moving a great primary institution out of a neighborhood because of the conditions that have developed there. I can read all of this aloud, but it can be read in the RECORD. Dr. Ingle speaks about what finally happened: How they chopped up these apartments, made big ones into little ones, the whiskey bottles broken in his driveway, the prostitution, the rape, and the conduct that has gone on in that area.

That is not EVERETT DIRKSEN speaking. That is the head of the Physiology Department of the University of Chicago.

I make the point for the very simple reason that we have been talking a long time about color, when in fact we should also be talking about conduct, because it is what happens later that begins to bother people.

There is a distinguished citizen in Chicago by the name of Arthur Krom, who sent a letter to my colleague within the last week or two. He sent me a copy.

Mr. President, I ask unanimous consent to have that letter printed in the RECORD.

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

SEPTEMBER 2, 1966.

Hon. PAUL H. DOUGLAS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR: Because you are making frequent trips to Chicago, I am bringing to your attention a prime example of what depreciation in real estate value occurs in areas which are primarily inhabited by Negroes.

Slums are not born; they are created. We, in the late 1920's, purchased a store and office building at 3500–12 West Roosevelt Road and 1144–50 South St. Louis Avenue, Chicago. At that time, Roosevelt Road had some of the finest fashion and apparel stores in the City of Chicago. The building we purchased was the best maintained and constructed office and store property on Roosevelt Road.

While I had never lived in the Lawndale area, I do recall as a youngster visiting relatives in that section. The apartment buildings were older, but the neighborhood was peaceful, the buildings were well maintained, and obviously were owned by landlords who had pride in their upkeep. If that were not the case, we would never have invested $500,000.00 in the Roosevelt Road-St. Louis Avenue purchase.

The subject building contains approximately 54,000 square feet of rentable area. One large unit consisting of three floors and basement (approximately 35,000 square feet) was occupied for years following the depression by a furniture dealer who, notwithstanding the changing neighborhood, continued doing a very thriving business.

As his immediate customers moved into newer sections or the suburbs, they continued to patronize him because he was in effect operating a discount furniture business long before the term "discount" reached its present fluency. However, in 1962 he finally had to move to the suburbs, renting a much smaller site and paying a much higher rental. Things had gotten so bad that his

customers were afraid to visit him. He would always send his salesmen with customers as they were leaving the store to provide safe conduct until they reached their automobiles. However, he was not able to provide the same conduct to customers who called him in advance, saying they would like to come to purchase some merchandise, and would he please have somebody on the street waiting for their arrival.

We began to complain to Mayor Daley and former Police Commissioner O'Connor as early as 1955 when we saw what was happening. One of the officers in Commissioner O'Connor's office informed us that we could stop all the depredations if we hired a man and had him deputized to carry a gun. We replied we were paying taxes for that kind of police protection. However, the police have never wished or been able to do enough to keep Lawndale from sliding down the skids.

Please bear in mind that the subject property never had any residential tenants. As the neighborhood changed, we did acquire some very reputable Negro professional tenants for the second floor offices, and we did have some Negro store tenants who did their best under the circumstances which prevailed. Even though they were of the Negro race, their "faith brothers" would not stop molesting these Negro tenants. They lost their merchandise, their office equipment, and the Negro doctors were being constantly burglarized for drugs in addition to their office equipment.

Finally, in 1964, out of 54,000 square feet we were left with three Negro churches on the St. Louis side of the building, occupying less than five percent of the total building. We had a survey made by one of the outstanding research organizations. The recommendation was to sell the property if we could. That, of course, was impossible. The next recommendation was to vacate the three church tenants because only one of them was paying the rent promptly, and the other two were presenting more troubles than justified their retention. The research organization recommended that we then attempt to secure a major tenant for the 35,000-square-foot unit in order to justify struggling along with the fringe tenants which were available for the remaining stores and offices.

We did terminate these three occupancies, November 1, 1964, and used our best efforts to find a suitable tenant for the main unit. The building was doing no harm to anyone. We thought we had it amply secured, but almost every week the unlawful element of the neighborhood found some new method of access. Plate glass became no longer insurable. The building had never had a major fire, but all the fire insurance companies terminated their policies. Complaints to the Police Department were made regularly without any improvement in surveillance. When Dr. Martin Luther King arrived in Chicago last spring, by coincidence or design the Chicago Police Department removed the "umbrella squad" car which patrolled Roosevelt Road and which served the function of looking for trouble rather than answering police calls. It seems the local Police Department was leaning over backwards to avoid antagonizing Dr. King and exciting him into cries of policy brutality.

The building at the present time is practically a complete shambles. I am writing you because this letter is an invitation to you to examine the structure on one of your future visits to the city. We shall need police protection when we enter the premises, and I am sure the Police Department will provide it for you and for me. It would not be safe to go into it otherwise.

I am sure that after you see this building you will understand why I am opposed to the open occupancy housing section of the civil rights legislation now being debated. I have seen a half-million dollars go down the drain, and I don't have anymore half-millions to waste. It is too late in life for me to start over again. At the present time I am not bound by the Chicago ordinance or any executive order of Governor Kerner. We operate our own properties and do not require any license to rent space therein.

It will take from one and one-half to two generations before any large percentage of the Lawndale inhabitants will be ready to live in other areas without causing the destruction of properties or the depreciation in values which have occurred in Lawndale. The population explosion among the Negroes will have to be drastically curtailed. They will have to learn to live in a civilized urban manner. The head-start pupils, if they are properly directed and educated, by the time they reach adulthood, should be ready to raise a new generation which, when it grows up, will accommodate itself to peaceful coexistence in good neighborhoods.

Examples like Prairie Shores or the integrated Hyde Park-Kenwood District are not comparable or proper criteria. Prairie Shores is highly specialized. Its proximity to the Loop attracts good white tenants who like the convenient location and who appreciate that, dollar for dollar, it is cheaper than what they would pay for similar housing on the Near North Side. As for Negroes, the rents are substantially above what they would pay elsewhere, and you have automatic screening. This screening is further supported by the fact that Prairie Shores is close to Michael Reese Hospital, which has on its staff or in its employ many highly-educated white and Negro eligible tenants for an integrated project of this kind.

The Hyde Park-Kenwood integration has been successful because it is contiguous or close to the University of Chicago. Here again you have an altogether different situation, providing tenants who are far above the run-of-the-mill quality.

In our case, we own apartment buildings in various neighborhoods with rentals that are no higher, and possibly are less, than what the Negroes are paying in Lawndale. We do not have the high rental protection to provide automatic screening. It would be impossible to determine from the flood of Negro applicants what rare ones we could admit without causing the kind of destruction we have seen in Lawndale. Accordingly, I would be committing economic suicide if I were receptive at the present time to open occupancy.

We also own commercial buildings in outlying neighborhoods. These, like our Roosevelt Road-St. Louis Avenue property, would deteriorate in the same manner if such neighborhoods embraced open occupancy.

You are likely to conclude that I am a reactionary, selfish old person out of tune with the present-day circumstances. This is not the case. I have a very keen sense of humanitarian responsibility. From personal experience I cannot afford to go through again what happened on Roosevelt Road and St. Louis Avenue. If you and your colleagues feel open occupancy should apply to all apartment buildings having more than four units, you should have the good sense and fairness to have the government acquire these buildings by condemnation, paying the owners the fair market value. Then the government can assume the risk and take the loss which is bound to occur if these properties are opened immediately to all persons.

Actually, I think Senator DIRKSEN is correct in contending that the open occupancy section of the proposed law is unconstitutional. I do know that restaurants, hotels and motels in the previous legislation were desegregated under an elasticized interpretation of the interstate commerce clause. This cannot apply to apartment buildings with permanent residents, whether such buildings have one unit or one hundred units for rent. There is nothing transient about such tenancies. Of course, the Supreme Court, as it is now composed, might declare anything constitutional, and this may be on what you are relying.

You cannot accuse the Chicago Housing Authority of being a slum landlord. Yet, most of their newly constructed, modern, low-cost housing projects have been converted into slums by the unruly occupants. Dispersing such housing projects throughout the city, as Dr. King has requested, will not save them from this kind of fate.

In any event, it will be an eye-opener to you, if you will accept my invitation and see what has happened to a good building, never owned by a slum landlord or operated as a slum property. You will see how a real estate owner can lose his life-time savings through no fault of his own, but merely because of an influx of inhabitants who were not educated to respect law and order and who were not controlled, and never will be controlled, in any proper manner by the police authorities. After you see this building, you may decide you cannot with a clear conscience vote for the open occupancy clause you now favor.

Yours very truly,

ARTHUR D. KROM.

(At this point, Mr. RIBICOFF assumed the chair).

Mr. DIRKSEN. He went down on Roosevelt Road—that is 1200 South or 2200 South—one or the other—and spent a half million dollars on a new building. He does not dare go into his own building without a police escort.

In his letter he invites the distinguished senior Senator from Illinois to come out and accompany him and go into his building.

What has happened? There has been a transformation of the area, and now we know why the spirit of fear has gotten so thick, so heavy, and so fearful that it can be cut with a knife. Yes, it is conduct, not color, that somehow becomes the issue, and that is why there has been so much umbrage.

A strange thing happened in Maryland yesterday. They had an election, and we may just as well allude to it. Night after night the only news I see on television is the 11 o'clock news.

A fellow by the name of Mahoney came along. I never met Mahoney in my life. I know he ran for office seven times, and once he got pretty close to it. But I must say that he is persistent when it comes to running for office.

What happened? Well, I have the so-called scoresheet here. He is ahead, and only a few precincts are out.

On what platform did he run? He ran on one plank. He said: "I am unequivocally against open occupancy."

The two distinguished Senators from Maryland participated in that election and were giving out handbills on the streets of Baltimore—and not for Mr. Mahoney, I might say.

So we see that there was a reaction from the people, because they think in terms of conduct.

Dr. Ingle, of the University of Chicago, said:

> I believe in equal rights regardless of race or creed and yet I believe that forced desegregation is phychologically and morally wrong.

So when it comes to testimony, we have to be just a little bit careful.

The second point I make is the compulsion issue. I did not think it would be quite so bad, but I have a letter here addressed to Mr. Graves, executive officer of the Atomic Energy Commission. It is signed by Glenn Seaborg, the Chairman of the Commission. We just confirmed him for something a moment or two ago to serve on a mission. His letter is dated July 1, 1965.

Let me read a little of Mr. Seaborg's letter to Mr. Graves.

It is my understanding that the Atomic Energy Commission is carefully evaluating various sites for the location of the Atom Smasher. It is gratifying to note that among other things the Commission is considering whether adequate housing facilities will be available for persons connected with the project . . .

We are advised that the state of Illinois is also under consideration as a possible site. That state has a long history of extensive housing discrimination on the basis of race. In addition, its legislature has refused to pass a fair housing law. President Lyndon Johnson has called upon the Congress to enact a national fair housing statute but the junior Senator from Illinois, Mr. EVERETT DIRKSEN, has announced his opposition to this proposal. With the state legislature opposed to fair housing and an influential United States Senator also against fair housing policies, it would seem that Illinois should be disqualified as a possible location for the project.

Who wrote that language? That was written by Clarence Mitchell, the liaison man and legislative director of the NAACP. This is a quotation from Mr. Mitchell's letter.

So no project for my State because the junior Senator undertakes to assert his conscience and his conviction on this subject.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter to which I have referred.

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

U.S. ATOMIC ENERGY COMMISSION,
*Washington, D.C., July 1, 1966.*

Mr. GENE H. GRAVES,
*Director, State of Illinois Department of Business and Economic Development, Springfield, Ill.*

DEAR MR. GRAVES: I have just received a letter from Mr. Clarence Mitchell, Director, Washington Bureau, NAACP, in connection with the Commission's evaluation of the six sites presently being considered for the location of the proposed 200 Bev accelerator.

The issue raised is an important one and in order that you are fully apprised of the situation, I shall quote the major portion of Mr. Mitchell's letter to me.

"It is my understanding that the Atomic Energy Commission is carefully evaluating various sites for the location of the Atom Smasher. It is gratifying to note that among other things the Commission is considering whether adequate housing facilities will be available for persons connected with the project.

"We advise that the state of Illinois is also under consideration as a possible site. That state has a long history of extensive housing discrimination on the basis of race. In addition, its legislature has refused to pass a fair housing law. President Lyndon Johnson has called upon the Congress to enact a national fair housing statute but the junior Senator from Illinois, Mr. EVERETT DIRKSEN, has announced his opposition to this proposal. With the state legislature opposed to fair housing and an influential United States Senator also against fair housing policies, it would seem that Illinois should be disqualified as a possible location for the project.

"Accordingly, it is urged that the Commission make a careful inquiry on the housing picture in Illinois. Without a clear legislative safeguard from the state and/or the Federal Government, it would seem that Illinois cannot possibly give assurance that there would be adequate safeguards against persons being deprived of housing solely because of race."

Last Friday we received the assurances on civil rights that were obtained by your office in response to Dr. McDaniel's questions. These assurances are currently being evaluated, but I feel that you may wish to develop further the question of discrimination in the housing field as a result of Mr. Mitchell's letter.

Sincerely yours,

GLENN T. SEABORG,
*Chairman.*

Mr. DIRKSEN. What is going to happen to you all? That is a good southern expression. I think they say "Y'all." What is going to happen to you all when there is a project and you are not right with the Lord, so to speak? You are not voting right? Then no project. What has this Government come to? I would like to know.

I said I do not scare. I think that BEV accelerator is supposed to cost $395 million. That is a tub full of money for any State, including mine. You know, they should be on me in a minute and say, "Pipe down and get on the bandwagon. There is $395 million involved."

I would not do it for a dozen accelerators if I thought it was going to be a disservice to the country and was going to betray my conscience and what I think is conviction.

I have one item here that I think I should put into the RECORD. There is a very incisive writer who writes for one of the newspapers. To make sure that I do not give competitive advantage to any newspaper, I will not tell the Senate which one it is, except that it is a Washington newspaper. The writer's name is James J. Kilpatrick. On occasions he has taken me apart. But this column he wrote recently under the title, "The New Rights Reality: Pervasive Compulsion."

Mr. President, I ask unanimous consent to have the article by Mr. Kilpatrick printed in the RECORD.

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

THE NEW RIGHTS REALITY: PERVASIVE COMPULSION

(By James J. Kilpatrick)

How far is it from Selma, Ala., to the Sheraton Hotel? A thousand miles? Last week, watching the White House Conference on Civil Rights, it seemed more like a thousand light years.

Some of the reporters who covered the conference had covered the Selma march. Some of them were veterans of Watts, of Oxford, of Birmingham and Little Rock. They had known the racial conflict in terms of the passionate hour, the smoking torch, the embattled street. They had known the story in the lives of men who sweat and swore, who shed real blood and cried read tears.

Last week, in the carpeted pastures of the Sheraton, they found the story curiously transformed. Here was a convention of men and women, well-mannered, well-dressed, thirsty for the sociable martini. There was a vast press room in the basement, rigged out with all the trappings of a national convention. The delegates had little shield-shaped badges, bearing their names, but these might have been badges of Chevrolet dealers, or Negro Elks, or life insurance agents. It was all modulated and regulated and briefed and pasteurized.

Everything about this conference was unreal. Every delegate had been furnished a copy of a 100-page report prepared by a 29-member council, containing a host of proposals for legislative action. "To some persons," said Vice President HUBERT HUMPHREY, in the understatement of the week, "certain recommendations found in the council's report will appear to be radical and outside traditional American procedures and practices." Yet the council's report carried not a single dissenting word from any of its members.

What would these recommendations cost? Cost was a dream. Floyd McKissick, new head of CORE, asked for federal programs estimated at $23 billion a year for five years. No one murmured, gasped, shook his head. The figure could have been $53 billion or $93 billion. In the midst of these carpeted floors and tapestried walls, it was hard to hear what he said.

The conference lacked even the pull and haul of internally conflicting factions. McKissick's resolution, dealing with Viet Nam, was a fizzle. The other resolutions were both predictable and unanimous. Some of the reporters shifted from one seminar to another, asking each other where the action was, but there wasn't any action. The morning and afternoon seminars might have been regional sales meetings, led by home-office panels: A good report from East St. Louis. A problem or two in Clarksdale.

The conference produced no exciting personalities. Stokely Carmichael, the smoldering new chief of the Student Non-Violent Coordinating Committee, boycotted the whole affair. The Rev. Martin Lurther King spent much of his time sulking upstairs. One of Mississippi's Freedom Democratic candidates for Congress was on hand, Lawrence Guyot of the 5th District, but he seemed almost as Rotarian as all the rest. The Johnson administration sent its big names around—HUBERT HUMPHREY, Thurgood Marshall, Arthur Goldberg, Robert Weaver, and on Wednesday night, the President himself. They came, and went, and left goodwill behind. Watts was a distant nightmare, and Selma a long way away.

Yet the recommendations that emerged from this civil rights conference are not nebulous. They are stunningly real. If they ever are written into law, they will result in a degree of federal control few men have dreamed of.

In the field of education, for example, the concept of a "color-blind" society is henceforth to be abandoned. "Congress should declare a policy of 'color-conscious' planning."

In housing, the recommendations demand of each community that it provide by law for a metropolitan-wide plan for the desegregation of housing and the promotion of biracial neighborhoods. In the absence of such local plans, federal assistance should be denied the community, and "the federal government should take direct action to provide housing needed."

The reality is compulsion; and the compulsion is pervasive. At a Thursday morning seminar, one delegate from Durham, N.C., complained mildly that a threat to withhold federal aid merely from local governments might be both ineffective and self-defeating. Some intransigent local governments would

kiss all federal aid good-bye; and Negroes themselves would be hurt most severely by a cutoff of federal funds for such programs as public welfare. The answer of Robert C. Wood, undersecretary of housing, was that the threat could be enlarged. Every form of Federal assistance—the insurance of bank deposits, the insurance of veterans' loans, even Medicare—could be denied a community until it met its "full responsibility to the Negro".

No one in the room objected. On the front row, a nun kept knitting. The discussion moved to other topics. Staff assistants floated in and out, soft-footed, efficient. After a while, we all took a coffee break, and poured cream and sugar and Constitution into paper cups, and watched them all dissolve.

Mr. DIRKSEN. Mr. President, what Mr. Kilpatrick writes about is the conference held in Washington on civil rights a few weeks ago. I shall read the last three paragraphs.

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But he said:

The reality is compulsion.

And "compulsion" is an odious word in my book. I shall read Mr. Kilpatrick's last paragraph:

No one in the room objected. On the front row, a nun kept knitting. The discussion moved to other topics. Staff assistants floated in and out, soft-footed, efficient. After a while, we all took a coffee break, and poured cream and sugar and Constitution into paper cups, and watched them all dissolve.

That is a great ending. So be careful about some of the testimony we have had. Be aware of the compulsion that is involved in all this business, and be aware of the fact that some other rights are involved in the bill.

I could allude to one other thing right now, and come back to it later. That is what I call subsidized legislation. Perhaps most Senators have not seen the original text of the bill. I saw it when the Attorney General brought it to my office, and we sat in my back room for 2 hours.

I said, "Nick, I couldn't take it"—and I could not take it. There it was provided that where a complaint of discrimination was made, the plaintiff, if he needed one, would be entitled to a free lawyer. The plaintiff would pay no court costs. He would pay no filing fee. He would give no bond for security, if that were involved, or no bond if a property interest were involved, and there might be a law.

The House changed that—that generous House. They struck out "the plaintiff" and put in "the parties." So both the defendant and the plaintiff would get free lawyers.

SPESSARD, we ought to go back to practicing law. It will be "a honey" before we get through. Uncle Sam and the taxpayers are going to pay our fees. That will be something, will it not—the Government subsidizing both sides to a litigious controversy?

But I would not vote for that on a bet. The Government is deep enough in controversy and in litigation as it is. But, you see, that is a part of the business with which we are dealing here.

One other thing before I leave this particular matter: Let us not kid ourselves as to what will happen to the owners of property in this country—the individuals. The promoters of the bill have fixed it up in very "ducky" fashion. You see, they finally decided, although it was not in the original bill, that the owner—the individual—could not be charged with discrimination. Certainly not. The court cases are numberless that hold that an individual as such cannot be charged, under the 14th amendment, with discrimination. Now the bill says an owner can be exempted. But the original bill did not exempt the owner; the owner of a home was included.

Accordingly, they changed it in the House. Will that be the end of it? No. Let us not kid ourselves. There will be a civil rights bill of 1967, and that will be in it. So that those who write the maudlin editorials about the 40 percent and the 60 percent are writing about contemporary mythology. Wait until we get through with this business. The owners will be brought to heel. They had them in the original bill, but finally the heat got so bad they had to change it.

Believe it or not, they had vacant lots in that bill. Is there any interstate commerce in a vacant lot? Why, as form came out of formlessness and the Lord shook the earth into being, there was a lot on Q Street. Maybe it has been there a million years. It has always been there. Perhaps it is vacant now after a million or 5 million years. So they bring it into commerce and they say that it shall apply to dwellings, to houses under construction, to houses in being, to houses intended for dwellings, and vacant lots. They took out the vacant lots, but do not be sure the vacant lots are permanently out. I bet this much in my left hand—I need my right—that there will be a Civil Rights Act of 1967 and the owners will be in it, and the vacant lots will be in it.

Mr. President, the other point I want to make is, they say to me, "You worked for public accommodations in the Civil Rights Act of 1965."

Yes, we modified it somewhat, but has it occurred to anyone that we use the word "public" in public accommodations?

What are we doing in this bill?

We are moving into the private domain.

We do not have a barbecue stand or a hotdog stand in the front parlor of a house to try to bring it into commerce on the ground that we are vending to the people who go up and down the street or on the highway. We are dealing with private property. Now it is proposed that we move from the public domain into the private domain. We are going to embrace all of the private domain before we get through—if they have their way.

If I am any kind of prophet, I merely say to the Senate that there will be another Civil Rights Act and the owners will be on tap and vacant lots will be in there. They will bring them all into this great and almost unlimited orbit.

This will be the forerunner, if ever we put this bill on the books—and I am not about to give my hand or my vote to that kind of proposal.

We also dealt with public schools, with public facilities, with public accommodations, with voting rights, a general public privilege, with fair employment, with Federal projects and with public assistance.

Now the demand goes into the private domain, and it will extend and it will extend and it will extend.

To show how far it will go, I notice that the Office of Education has come up with the conclusion that the textbooks of the country do not do justice to the question of immigrants. Ipso facto, we have to modify the textbooks. Perhaps the schools cannot throw out all the textbooks. But they say, "That is all right, we will give you some Federal money to do it, but we have got to get someone to rewrite the textbooks. They will have to be subsidized and we will have to get the right people to do the revisions."

Thus, we see, it is just one step after another in this domain. We are now very much in the private domain.

The next item is that when I first uttered my opposition to the bill, I put it on constitutional grounds. I said, "No, this is not for me." I thought there was real merit in the testimony offered by Dr. Sylvester Petro, of the Law School of New York University. I ask unanimous consent to have the entire testimony before the committee printed in the RECORD.

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

STATEMENT OF PROF. SYLVESTER PETRO, PROFESSOR OF LAW, NEW YORK UNIVERSITY SCHOOL OF LAW

Mr. PETRO. Thank you very much, Senator ERVIN, for having invited me down. I find that the subject to which I am going to address myself is one of the most fascinating that I have encountered in a long time, one of the most incredible as a matter of fact. I find it hard to this day to believe that in this country, which prides itself on freedom, so thoroughgoing an assault upon so intimately a significant freedom as the right of property should be possible.

I understand that there is a tremendous amount of confusion everywhere in the world, not only in this country today, concerning the meaning of key terms, such as freedom, voluntariness, compulsion, and so on. I sincerely hope, Senator, that I am going to make a contribution today toward the clarification of some of this confusion.

Freedom is a condition to which the right of private property is indispensable. If you tell me that I must sell my house to A instead of to B, or instead of taking it off the

market, you have deprived me of my right of private property, and of my freedom. If you force me to sell without providing me with traditional safeguards, then you have not only deprived me of liberty and property, but you have done so without due process of law. The fundamental defect of title IV of Senate bill 3296 is that it proposes the most far reaching, the most offensive, and the most arrogant deprivation of property without due process in the history of the United States.

I address myself to title IV exclusively. I wish to emphasize this point, because title IV is it seems to me sharply distinguishable from the other titles of the bill. The other provisions propose to remedy denials of civil and personal rights. As such, they cannot be called defective in principle, though they might prove to be evil in policy and practice, and I believe that that is so, that they would prove evil in practice. Title IV, however, exercises me a great deal more. For it is a clear denial of right, vicious in both principle and practice, because it cannot possibly be administered in accordance with due process of law, and because it adds materially to the forces already at work to introduce the police state into this country. It is just possible that title IV will not work at all. And I shall try to explicate my reasons for that statement before long. But if it does, if it does work, it will do so at the expense of liberty, property, and due process. I propose now to demonstrate the accuracy of this charge.

My first point is that freedom and the right of private property are one and the same thing.

It is customary among proponents of such legislation as title IV to praise it in the name of freedom. However, the briefest examination of the legislation and the barest acquaintance with the condition known as freedom will expose the error of identifying title IV with freedom.

Title IV would force individual homeowners, real estate brokers, and financing institutions to sell and finance the sale of homes in circumstances in which they would prefer not to do so. Homeowners are told in section 403 that, no matter what their own preferences may be, they are compelled by law to sell, rent, or lease their dwellings without regard to the race, color, religion, or national origin of prospective purchasers or tenants. Brokers and financial institutions are subjected to corresponding and implementing deprivations of their rights. Sections 406 and 407, as we shall see, encourage the most aggressive possible prosecution of the policies of the legislation.

No great acumen and no tortured analysis are necessary in order to perceive how drastically title IV invades and restricts freedom and property, and therefore how incorrect and deceptive it is to identify title IV with freedom. A man is free precisely to the extent that his property rights are intact, because the condition of freedom and the condition of slavery are distinguished on the basis of the right of private property. A freeman owns himself and whatever he comes by lawfully. A slave owns nothing. He does not own himself, and, if he is in full slavery, he can own nothing else; not even his children are his. They belong to his master.

Ownership, however, means more than the possession of formal legal title to things. It means control. Control means authority over use, and over disposition as well. It means the condition in which one has the authority to follow his own preferences. Obviously it does not mean that one may use his property in a way which destroys the property of others. The rights and the freedom of others are entitled to the same status and condition as his. But that qualification poses no serious problem. It is easy to see that property rights and freedom cannot exist where some are permitted to invade the rights of others.

Legislation such as title IV is sometimes advocated on the theory that freedom involves the right to live wherever one chooses. Indeed, I infer that this is Senator DOUGLAS' position. It is the position of people who speak in those terms that one is not free unless he is in a position to buy whatever he wants to buy. But this is an incorrect usage of the term "freedom", and it is very easy to demonstrate the error. For if I have the right to live wherever I choose, then someone else must have the duty to permit me to do so. Suppose I prefer my neighbor's home to my own. Have I the right to force him to sell to me? Obviously I do not—not in a free country, anyway. For if I did, I should possess, not freedom, but power. And if he were obliged to sell, it would be foolish to speak of him as a freeman with his property rights intact.

The same is true of the so-called "right to buy." No one in a free country, when one thinks seriously about these matters, has a right to buy anything. If he is a freeman, what he has is a right to offer to buy. And if the man on the selling side is a freeman, in a free country, he has the right to offer to sell or to refuse to offer to sell. A completed transaction occurs, in a free country, when a willing and able buyer encounters a willing and able seller and they get together on terms which are mutually satisfactory.

Title IV does not promote freedom. It destroys freedom and creates power on one side. To speak of it in the name of freedom is to engage in an ugly perversion of the central principle of the good society.

I read the Attorney General's statement before the House Judiciary Committee, and there were a number of things in the Attorney General's statement that I thought interesting enough to call for comment. It brought out some of the issues that I think are paramount, in a particularly striking way. He said, for example, that "the ending of compulsory residential segregation has become a national necessity." His use of the terminology "compulsory residential segregation," to speak kindly, is strained. Taking the words in their natural meaning, one would have to conclude that the Attorney General is engaged in fantasy or science fiction. I am not aware of the existence of "compulsory residential segregation" anywhere in the United States. Indeed, since the Supreme Court's decision in *Shelley* v. *Kraemer*, even contractual residential segregation is no longer possible, for that case held racially restrictive covenants unenforcible.

The truth is that the only kind of residential segregation which exists in the United States today is purely voluntary. The further truth is that the persons ultimately responsible for such voluntary housing segregation as exists are individual homeowners. The Attorney General seeks to shift the onus. He said to the House Judiciary Committee:

"I believe it is accurate to say that individual homeowners do not control the pattern of housing in communities of any size. The main components of the housing industry are builders, landlords, real estate brokers and those who provide mortgage money. These are the groups which maintain housing patterns based on race."

Everywhere in the United States today homeowners are free to sell their homes to whomever they wish among those who bid. Nowhere are they prevented from selling to Negroes, Jews, Puerto Ricans, or any other so-called minority. It is unlawful everywhere for anyone to interfere with a man's right to dispose of his property as he sees fit. If one real estate broker refuses to deal with members of a given race, the homeowner is free to seek another. If he can find no broker who will deal indiscriminately, the homeowner may take over the selling function himself, as many do. I am confident that there is not a newspaper in the United States which would reject an advertisement offering a house for sale or for rent to all comers.

The Attorney General's strained use of the strange terminology, "compulsory residential segregation," I believe must be accounted for by his natural reluctance to describe the effect of title IV accurately. But no valid purpose is served in beating about the bush. The purpose and effect of title IV are to deny freedom and to restrict the right of private property, not to protect and advance them. The particular and ultimate victim is the homeowner—not the builder, not the real estate broker, and certainly not the banker. For them, in their commercial roles, housing is purely a commercial matter. They will not be hurt in those roles by a law forbidding the discriminate sale or renting of private homes. But the individual homeowner will be. He will find his freedom and his most cherished values savagely mauled.

I want to refer to another aspect of the Attorney General's strained terminology about compulsory residential segregation: his reference to "national necessity."

When one removes the tortured indirectness from the Attorney General's language, what remains is this assertion:

"The policy of this Administration is to favor a compelled amalgamation of all races, colors, and creeds in residential areas: individual preferences, the right of private property, and personal freedom must all be sacrificed to this overriding policy."

Senator ERVIN. There is a vote call. We will dash over there and get back just as soon as possible. When we scheduled this hearing we had no reason to anticipate that we were going to have a constant succession of record votes.

(Short recess.)

Senator ERVIN. The subcommittee will resume.

Mr. PETRO. Shall I resume, Senator?

Senator ERVIN. Yes, sir.

Mr. PETRO. I was speaking about the Attorney General's use of the term "national necessity."

Senator ERVIN. I would just like to join you in emphasizing your statement on page 7 that taking this bill as it stands, the policy of the administration in advocating this housing provision is to compel amalgamation of all cultures and creeds in all residential areas. Individual preferences, the right of private property, and personal freedom must all be sacrificed to this overriding policy.

Mr. PETRO. I think we have the heart of the bill there.

Senator ERVIN. It seems to me that yours is a most effective statement, in a nutshell, of the policy which underlies this bill.

Mr. PETRO. Thank you, Senator. I would like to continue in plain talk, because verbal byplay must not be allowed to conceal the real meaning of the Attorney General's statement. He refers to "national necessity." What meaning are we to give to "national necessity" when that expression runs counter to individual preference? The purpose of title IV, to repeat, is to produce a racial mixture in residential areas. If that mixture does not now exist it is because individual homeowners have preferred something else. But this is a nation of homeowners. Is not the residential pattern therefore an expression of their desires, and as such an expression also of national policy? By what right does the administration arrogate to itself the authority to frustrate such desires and to identify contrary wishes as "national necessities"?

A man's family and his home are dear to him, the things he cherishes most in the world. He will work for them as he will

work for nothing else. In fact I have a considerable number of callouses right now on my hands, Senator, from clearing several acres of woods, a living testimonial to the drive built into a man to take care of his home. A man will work for his family and his home as he will work for nothing else. And out of such striving great things have emerged. America as we know it today, with all its power and wealth, is a byproduct of the efforts that men have expended in building their families and homes. All the massive edifices in Washington, D.C., all the vast means at the disposal of the Government of the United States, are mere incidentals to the main business of the ordinary American, who works for his family and his home—not for "national necessity," whatever that pompous phrase may mean.

We must get these things straight. Governments do not produce either men, families, or wealth. Men produce those things. The only thing that government produces is more government. If, in producing more and more government, a country should destroy the mainspring of human striving, the fact that the destruction has been cloaked in the verbiage of "national necessity" will not change the consequences. The country will regress; its wealth diminish; its government become a fourth-rate power; its general tone will become puny.

I take no position one way or the other on the desirability of racially amalgamated residential areas, and I do not see how any other mere mortal can do so, for it seems to me to be entirely a matter of personal preference.

I believe it was the right of the people in Senator DOUGLAS' Hyde Park-Kenwood area to undergo the integration experience that they have undergone, and I might add from personal direct knowledge that the experience was a good deal more horrifying than Senator DOUGLAS suggested. To repeat, I don't know what the pattern of any residential neighborhood should be. What I do know and assert is that the goodness, wealth, and power of this country are products of the striving of freemen in the pursuit of their preferences; in short, products of the right of private property. I know, furthermore, that title IV, whatever the Attorney General may say about it, is the most far-reaching and thoroughgoing invasion of the right of private property that has ever been proposed in this country. The Attorney General refers to title IV as a "national necessity." I believe it better described as a national disaster.

Senator ERVIN. Again, I am going to have to vote.

(Short recess.)

Mr. AUTRY. Pursuant to the request of the chairman, the witness will continue with his prepared statement. The chairman will return as soon as the vote is completed.

Mr. PETRO. All right, Mr. Autry. I turn now to the procedural aspects of this bill. I find the procedural aspects of title IV as questionable as its substantive policy, perhaps far more serious in the inroads it makes on the rights of homeowners.

It encourages unmeritorious and vexatious litigation despite the crowded conditions of court dockets all over the country. It creates evidential problems which are likely to make a mockery of due process of law. Its provision for remedies are likely to intimidate the decent citizen. The powers of intervention granted the Attorney General are vague and ill defined and smack more of the police state than of a society ruled by law.

Consider the matter of unmeritorious and intimidatory litigation. Section 406(b) authorizes the Federal courts, whenever they "deem just," to subsidize proceedings against homeowners who have allegedly refused to sell or rent on the basis of race, creed, or national origin. No such subsidy is made available to the defending homeowner. Thus a disappointed purchaser has everything to gain and nothing to lose by suing the homeowner. Under section 406(b) the would-be purchaser may commence a civil action "without the payment of fees, costs, or security * * *." This means he may secure even an ex parte restraining order, preventing the homeowner without notice or hearing from selling to another, without forfeiting a bond or security. This is different from the situation which prevails in the case of any other kind of litigation whatsoever.

There is no need to dwell at length upon the evils of this provision. They are obvious. Every homeowner in the country is a potential victim when he puts his house up for sale, whether or not he has violated the law. The normal restraints upon vexatious litigation are gone.

Mr. AUTRY. May I interrupt for just a moment, Professor? Senator SMATHERS is back, and he will assume the chair in Senator ERVIN's absence.

Senator SMATHERS. Will you go right ahead?

Mr. PETRO. Thank you, Senator. The normal restraints upon vexatious litigation are gone. As we shall see, it is likely that the burden of proof will come to rest swiftly upon the homeowner, rather than, as is traditional, at least in due-process countries, upon the complaining party. The difficulty of sustaining the burden of proof together with the subsidizing of the complainant add up to a massive instrument for the intimidation of homeowners.

Even without the subsidy provision, title IV, if enacted, is likely to produce a flood of litigation, and litigation of a peculiarly complicated character. With the subsidy, of course, there will be even more. I do not suggest that the litigation-breeding charge is ever a valid argument against an otherwise meritorious law, for I believe that if a proposal has merit, it should pass even though it increases the burden on the courts. The trouble with title IV, however, is that it is both bad in principle and likely to encourage great volumes of unmeritorious and purely vexatious litigation, when the Federal courts are already heavily burdened.

The probable result is that proceedings under title IV will work the most vicious kind of injustice. Complainants, that is to say, disappointed purchasers from a minority, will ask for restraining orders, pending a full trial, which is likely to be long and drawn out. Homeowners will thus lose their purchasers, while the complaining parties, on the other hand, will have nothing to lose, especially when even their attorneys' fees and security costs are covered by the taxpayers. The net effect is likely to create discrimination in favor of members of minority groups. Indeed, that seems to be the object of all the procedural features of title IV. The compulsions and the denials of freedom which characterize the substantive features of title IV will probably be surpassed by the compulsions inherent in its procedural features.

I turn now to problems of proof and due-process implications.

Every time a belligerent member of an identifiable minority bids unsuccessfully on a home, or a rental, he is in a position to make life miserable for the hapless homeowner. Suppose a Jewish homeowner, with his house up for sale, receives equal bids from two persons, one a Jew, the other an Italian. If he sells to the Jew, the disappointed Italian has the basis for a suit. The Italian may petition for a temporary restraining order, thus blocking the sale to the Jew, pending full trial. How long will the Jewish purchaser keep his offer open?

And what will happen at the trial? The law is vague. It forbids refusing to sell to any person because of race, color, religion, or national origin. How much proof is required? What kind? On whom will the burden of proof come ultimately to rest?

We have considerable experience with a similarly vague law. An analogous provision in the National Labor Relations Act prohibits discrimination by employers which tends to discourage union membership. The National Labor Relations Board considers itself as having a prima facie case of discrimination when a union man is discharged by an employer who has betrayed antiunion sentiment. At that point the burden of proof shifts to the employer. He must show that there was some good cause for the discharge—a violation by the discharge of some strictly enforced rule, or a failure by him to meet objectively demonstrable standards. If he fails in this showing, the employer will be found guilty of unlawful discrimination.

The homeowner under title IV is in a much more difficult position than the employer under the National Labor Relations Act. How is the homeowner to prove—in the case I give—that he had some objectively demonstrable cause—other than race or religion—when the Italian made the same offer that the Jew made?

It is possible that the Federal courts, unlike the National Labor Relations Board, will require objective evidence of discriminatory motivation before they hold homeowners guilty of title IV violations. But if the courts take that position, title IV will become a dead letter; ocular proof of discriminatory motivation is in the nature of things unavailable. Hence the probability, if title IV is to be viable, is that the courts will do what the Labor Board has done; that is, rely upon presumptions and inferences. In that case title IV will become an even more pervasive instrument for the denial of due process than the Labor Act has been. The burden of proving lack of discriminatory motivation will fall upon the homeowner, and in 99 cases out of a hundred, he will be unable to carry that burden. He will not be able to prove, in the case I have cited, that there was a nondiscriminatory basis for his refusal to sell to the Italian.

Add this to the fact that he will probably have been restrained by the court from conveying to the Jewish purchaser, pending trial, and it becomes evident that title IV puts the homeowner into an impossible position when he is confronted with purchasers from different minorities. No matter which he chooses to sell to, the other is in a position to make life miserable for him. An age-old instinct of the common law was to conceive rules in the manner most likely to encourage and promote the alienability of realty and chattels. It would appear that the aim of title IV is, at least, in part, to frustrate realty transactions.

If the homeowner is confronted with offers from a Negro and a white Anglo-Saxon Protestant, he has no choice under title IV at all. Preferring the Anglo-Saxon will, if the disappointed Negro is belligerent or fronting for a pressure group, produce an immediate restraining order, frustrating an immediate sale and probably inducing the purchaser to go elsewhere, for many important family matters hinging upon the timing of home purchases. Again, there will be a trial, probably prolonged, and how will the homeowner establish that his choice was not on the basis of race or religion? He has everything to lose and nothing to gain from fighting the case.

Title IV takes away his precious freedom, his right of private property, and makes a mockery of due process while doing so. "National necessity" is cited as the justification for this vicious betrayal of some of the best of the American tradition. But I am unable to understand how it can be nationally necessary to destroy what is good and strong in a nation. Title IV is an instrument useful only to beat the country's homeowners into a state of supine submission. Perhaps they

will rebel against it, however, in which case there will be chaos.

Perhaps title IV will stimulate evasive hypocrisy on a universal scale, an even more repulsive possibility. But meek submission is what the bill seems to aim at, and I can think of nothing more foreboding than the realization of that aim. No great society was ever built by sheep or cattle.

Intimidatory remedies: There is an infinity of evil in title IV. Section 406(c) provides that—"the court may grant such relief as it deems appropriate, including a permanent or temporary injunction, restraining order, or other order, and may award damages to the plaintiff, including damages for humiliation and mental pain and suffering, and up to $500 punitive damages."

Section 406(d) authorizes the court to—"allow a prevailing plaintiff a reasonable attorney's fee as part of the costs."

In the light of these penalties, the homeowner will have to be foolhardy indeed who refuses to sell to the member of any minority group.

The bill puts no limit on the amount that may be awarded for "humiliation and mental pain and suffering." Apparently the sky is the limit. It is true that there is a "reasonable" limitation on the amount which may be assessed against the defendant for a successful plaintiff's attorney's fees. The fee may still grow to a substantial amount however. Equity proceedings and a prolonged trial may easily involve work and time for which thousands of dollars constitute a reasonable fee. And it must never be forgotten that the victim of title IV will usually be an individual homeowner. More than that, he will usually be a man of modest means, for the wealthy will never have problems under title IV, and even the well off will rarely have trouble with it.

Special note must be taken of the variety of court orders authorized by section 406(c): "permanent or temporary injunction, restraining order, or other order." Obviously there is plenty of room in this catalog for the most extreme type of court order, the mandatory injunction. In short, a homeowner may be ordered to convey his property to a person to whom he does not wish to sell it, or even, indeed, after deciding to withdraw it from the market. Consider this type of case, which occurs often enough: after getting only one offer for his home, and that from a Negro, the homeowner decides after all that he does not wish to sell; the Negro, or some supporting organization, gets its wind up, creates a great deal of publicity, leading to what may be called humiliation for the would be purchaser, and then files suit, demanding a mandatory injunction and all kinds of damages allowed for in the bill. Moreover, the Negro convinces the court that he lacks means and thus acquires a subsidy for all court costs, fees, and other costs.

What is the position of the homeowner in such a case? He made no formal announcement that he was withdrawing his house from the market. Born and raised a freeman he felt no obligation to clear his change of mind with anyone. He just went ahead and adjusted numerous complicated and intimate family plans to his new decision. But how will he prove that there was no discriminatory motivation in the face of the evidence—the prima facie case—against him! Should he fight the case? If he fights, the costs will be heavy, and his means in all probability slender. There is no provision in the law covering his costs, if he wins. Can one afford to fight such a case? Why fight, anyway? Why not just let the court take away the house and convey it to the person who wishes to purchase. It's only a house, after all, and the family can adjust to a move.

I said title IV would stimulate the growth of police state conditions. What I had in mind was sections 407 (a) and (b) which give the Attorney General a roving commission to institute or to intervene in title IV proceedings pretty much as he pleases. Section 407(a) permits him to institute suit whenever he (not the court) "has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted to this title."

All the forms of relief available in private suits are made available in suits instituted by the Attorney General.

The Attorney General has even broader and more vaguely defined power to intervene in actions commenced by private parties. Under 407(b) he has the authority to intervene if he merely certifies that the action is of "general public importance."

The effect of these two sections is to authorize the Attorney General to police every real estate transaction in the United States. Obviously even the enormous tax revenues of the United States and its prodigious number of officeholders are not sufficient to permit the Attorney General to intervene in every transaction yet. He will have to pick and choose. The picking and choosing is likely to be dictated in title IV cases largely as it is in all similar instances of governmental intervention. Political, publicity, and psychological considerations will play an important part. Thus the full power of the Federal Government will be thrown against the homeowner who happens for one or another of these reasons to constitute a suitable target. The police state implications of this boundless grant of power are too obvious to require comment. Pity the poor homeowner who finds himself caught in the middle.

In conclusion, there is no doubt in my mind of the proper disposition of title IV of S. 3296. It should be rejected. I repeat: I take no position on the question whether racial amalgamation of residential neighborhoods is desirable; in a free country, residents should make that decision each for themselves—not politicians or government agents, or courts. What I am convinced of is that compulsory amalgamation has no place in a free country. What I am convinced of further is that title IV is a measure devilishly and deviously contrived in each of its provisions to work a compulsory amalgamation. Title IV is advertised by its proponents as a "national necessity" designed to promote freedom and justice. In fact, it is a national disaster which destroys freedom while spreading injustice across the land. Whatever the Attorney General may say about it, the principal target and ultimate victim is the individual homeowner. This lonely individual will find hmself in title IV proceedings fighting against preposterous odds for the things most dear to him. He will finance his opponent in individual proceedings in many cases, and his tax money will be used against him in proceedings brought by the Attorney General. Title IV is a stacked deck against the individual homeowner, his liberty and property. If title IV is passed it will amount to a declaration of war by the Government of the United States against its sturdiest and most productive citizens, the homeowners of the United States. The consequences for the country cannot be anything but evil.

That concludes my statement, Mr. Chairman.

Senator ERVIN. As I construe your statement, your position is that title IV of this bill is inimical to the basic freedom of Americans to acquire homes for themselves wherever they desire to acquire those homes, so far as they can obtain those homes by free action on part of the persons from whom they acquire them:

Mr. PETRO. Precisely.

Senator ERVIN. In other words, the basic issue you see here is the fundamental issue of freedom.

Mr. PETRO. Freedom and human rights.

Senator ERVIN. And your position is that except insofar as they may have been altered by artificial actions of government, all the residential patterns now existing in the United States are patterns which have been created by Americans acting in accordance with the freedom given them by the right of private property and the right to contract freely with reference to private property.

Mr. PETRO. Yes, sir. It cannot possibly be anything else. Where the Attorney General got the idea that there is compulsory residential segregation is beyond my understanding.

Senator ERVIN. And can we not act upon the assumption that the residential patterns which have been established by freemen acting in the exercise of their right of private property and in the exercise of their right to freedom of contract in reference to private property are the racial patterns which express the will and purpose of the people themselves?

Mr. PETRO. Yes, Senator. I think perhaps this should be amplified somewhat. It is not correct to view this enormous, beautiful, varied and fantastically interesting country as a monolith, you know. The residential patterns of this country are as varied as the rest of the country.

I find this is good. Of course I stay away from Washington, Senator, and therefore I do not get this thing you call Potomac fever, the idea that I have to impose my will on everyone else.

I mean that I find it interesting that in some areas the residential patterns go one way and in other areas they go another way. That is life, because only in a dead society are patterns fixed and rigorous.

God knows, 100 years from today, a voluntary society may have produced a perfect mix, one that will please even so stanch a New Dealer as Senator DOUGLAS. But it would do so voluntarily, if we maintain the free character of the country.

Senator ERVIN. In other words, you say that whatever pattern may be evolved by the exercise of freedom on the part of freemen is a pattern we should have, and we should not have a pattern which is fashioned by the artificial use of the coercive power of law contrary to the wishes of the people.

Mr. PETRO. Sure, and there are an infinite number of examples indicating the disastrous consequences of interfering with the free course of life.

Consider how the Japanese, I believe it was, used to bind the feet of their women. The result was deformed feet, very much like the desire of some of the people in our Government to bind the Nation up into a pattern that they think appropriate. It is no man's right to tell another man how to live or how to dispose of his property.

Senator ERVIN. I will not do any bragging on myself except to one extent, and that is I rejoice to say that I have been here 12 years without contracting Potomac fever. I still believe that the people who sent me here can manage their personal affairs, such as that of selecting homes for themselves and selecting the persons with whom they wish to contract or associate and in so doing can build a far better country than could be done by direction and control of the people on the banks of the Potomac.

It is one of the odd things that so many men elected to the Congress of the United States come to the conclusion that the people who sent them here have not got sense enough to manage their own affairs, but that on the contrary the affairs of those people who sent them here must be managed by some bureaucracy up here on the banks of the Potomac.

Mr. PETRO. You know, it creates a really paradoxical situation, if such a man thinks it true. The people that he is not willing to permit to run their own lives are the people

who selected him. Did they have sense only to elect somebody to be their slave driver? Is that the extent of their competence?

Senator ERVIN. To me——

Mr. PETRO. Wait a minute, Senator, please let me interrupt, because I think there is no one who has greater respect for the Government of the United States than I do, and I want to make it perfectly clear that I do not believe that every man who comes to Washington contracts this fever.

Senator ERVIN. That is true. If all of them had contracted it, all of our differences would now be vanished dreams.

Mr. PETRO. Yes.

Senator ERVIN. And the only reason we still maintain many of them is the fact that all people do not contract Potomac fever. If they did, we would have a thoroughly regimented society with no freedom of choice whatsoever left to the individuals, and that is what I understand your position fundamentally is. I know your books have been an inspiration to me, because you have said things with reference to maintaining a free society which express what I feel is the great truth about this country. This country was made great by freedom, and this country will remain great so long, and so long only, as it adheres to the belief that the most precious value of civilization is freedom.

Senator SMATHERS. I would merely like to state this, Mr. Chairman. I do not know when I have listened to a more powerful and persuasive statement with respect to any question that we had before us that equals that just made by Professor Petro. I congratulate you on it.

I wish that every Member of the Senate had had the opportunity to listen to you as we had. I would like to wish and hope that each Member of the Senate would read it, and I do not believe that will be the case, but I hope that many of them do. If they do read it, I do not see how they could then in any manner support or vote for title IV of this so-called civil rights bill.

I would like to get for the record once more what I think the chairman has already stated, but I did not hear it very clearly when you introduced the witness. I would just like to have you repeat. Where did you get your law degree, from what university was it?

Mr. PETRO. The University of Chicago, a very great and a very misunderstood university.

Senator SMATHERS. And then you got a master's degree in law from where?

Mr. PETRO. The University of Michigan.

Senator SMATHERS. And do you have any other degrees?

Mr. PETRO. A bachelor's degree.

Senator SMATHERS. You have a bachelor's degree. And you are now teaching?

Mr. PETRO. New York University.

Senator SMATHERS. New York University. All right, that is all I have. I again want to congratulate you.

Mr. PETRO. Thank you very much, Senator.

Senator ERVIN. Counsel said he has just one or two technical questions about the enforcement provisions of title IV.

Mr. AUTRY. Mr. Chairman, I hesitate to open my mouth. I think that everything that needs to be said about title IV has just been said. But for the record, I would like to know if the professor knows of any precedent, State or Federal, in tort law, where plaintiffs are provided with court appointed attorneys? I know workman's compensation——

Mr. PETRO. This is a big country and there are a lot of fantastic laws on the books of the various States, but to my knowledge no such law exists, as obviously the common law would not have provided for anything like this.

It would not have been so insane as to attempt to exacerbate the already litigious instincts of so many people. This is a perfectly solid way to make the courts real barriers to getting anything done. Fill them up with people whose litigations have been subsidized.

Mr. AUTRY. Thank you. And do you know of any tort statutes in which are enumerated damages for humiliation plus damages for mental pain plus damages for mental suffering plus punitive damages?

Mr. PETRO. No. Again this proposed legislation breaks entirely new ground in the destruction of due process of law.

Mr. AUTRY. Thank you, Mr. Chairman.

Senator ERVIN. I just want to reiterate what I have said before. You have made a magnificent statement. I do not believe it could be improved on as to the fundamental defects in the proposal embodied in title IV of this bill. You have rendered a distinct public service.

I would like to have your permission to insert your statement in the CONGRESSIONAL RECORD for myself and Senator SMATHERS, in order to give it as wide a dissemination in the printed page as possible.

Mr. PETRO. Thank you kindly, Senator. Permission granted of course.

Senator ERVIN. The subcommittee will stand in recess until 10:30 in the morning.

(Whereupon, at 5:05 o'clock p.m., the subcommittee adjourned to reconvene at 10:30, Friday, June 10, 1966.)

Mr. DIRKSEN. Mr. President, this is a brilliant treatise.

A very distinguished lawyer said to me, "You have read it?"

I said, "Oh, certainly." I said further, "What do you think about it?"

"Well," he said, "it is a nice assortment of rhetoric, but it doesn't amount to very much."

What Dr. Sylvester Petro, of New York University Law School, says is that this is the greatest assault upon the due-process clause of the Constitution that anybody has ever undertaken.

I can read his testimony to the Senate, but time is at a premium this afternoon, and I do not propose to do so.

I ask all Senators to read it, however, as it is now a part of my remarks.

For good measure I give still another one, also a professor at the University of New York, Bertel M. Sparks, professor of law at New York University, a reasoned philosophical treatise on this subject involving due process and the rights of the people. In my judgment, he makes a very splendid case.

I ask unanimous consent to have this testimony printed in the RECORD.

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

STATEMENT OF BERTEL M. SPARKS, PROFESSOR OF LAW, NEW YORK UNIVERSITY

Mr. SPARKS. Thank you, Mr. Chairman. If I may, I would prefer to present the statement, and if there are any questions later, I will be glad to answer them as best I can.

Senator HRUSKA. Very well, you may proceed.

Mr. SPARKS. First, I am deeply grateful and I feel highly honored at the privilege of being before this distinguished committee to present my views. This is especially true in view of the fact that I am here for no reason and in no capacity other than that of being a citizen of a free Republic. I am not representing any particular group or faction or special interest or anything of that sort.

A person might be against a proposed piece of legislation because he does not approve of the objectives sought or he might approve of the objectives but still be opposed to the particular statute because he does not consider it a proper means of achieving the desired goals. It is assumed, and I am willing to assume, that the objectives of title IV of Senate bill 3296 are to provide additional means for enforcing the constitutional provisions for equal protection of the laws and to give Negroes, and possibly other groups, a better opportunity to obtain more desirable housing.

These are worthy goals indeed and it is doubtful if anyone can be found who will disagree with either of them.

I assume that there is no one present or absent who would disagree with that.

But in spite of the good intentions, inquiry must be made into the actual results title IV is likely to produce in the marketplace. For I believe that Daniel Webster spoke the truth when he said the "Constitution was made to guard the people against the dangers of good intentions."

In the popular press, the bill is being referred to as a civil rights bill. But the experienced legislator can never be content with labels alone. He must ask himself, in connection with civil rights, what rights, to whom are they being given, and who is giving them? Upon these questions title IV is extremely ambiguous. It purports to give a right to everyone to purchase or lease real estate without regard to his "race, color, religion, or national origin." But that right already exists in every instance where the prospective buyer locates the desired housing and offers the price for which a willing seller is prepared to sell.

That brings us more directly to the question as to how title IV proposes to improve the buyer's position. A reading of the bill, especially section 403, makes it quite clear that its purpose is to improve the buyer's position by providing for him a willing seller in circumstances where a willing seller might not otherwise be available.

There are a number of rather extensive enforcement provisions concerning the bringing of lawsuits, payment of attorney's fees, and the regulation of real estate brokers and financial institutions. Many of these are of highly questionable viability within themselves.

I might say that I have assumed that a lot of them were put in there for negotiating purposes. But that is not what I am going to talk about now, because I assume they are all in one way or another to support or supplement what purports to be the one basic right extended to the buyer. It is that central basic provision that I wish to discuss. And it will be my position that if the bill is enacted, its principal effects will be (1) to reduce the total amount of housing available by discouraging building, and (2) to put Negroes and other groups the legislation is intended to help at an increasing disadvantage in their attempts to buy what is available.

The bill attempts to provide a willing seller by denying to every property owner the right to consider "race, color, religion, or national origin" as influencing factors in the selection of a tenant or customer. But that provision raises two further questions of primary importance: (1) What personal right does this take from every homeowner in the land? and (2) What effect will this have upon the ability of Negroes and other minority groups to obtain better housing? These are important questions.

The constitutional prohibition as well as the longstanding legal tradition against the taking of property without due process of law brings us down to bedrock as to the meaning of the word "property" and what constitutes a "taking." The question is an important one, not only because of the provision in the Constitution, but also because of its significance in every aspect of human affairs. I am afraid that my discussion on

this point will appear excessively esoteric to some and excessively simple and unnecessary to others. Whichever group you happen to be in, I beg you to bear with me because I believe a careful analysis of the nature of the property being taken is essential to an understanding of the effect this bill is likely to have in the marketplace.

In its legal sense, the word "property" does not refer to material things such as houses and lands, articles of clothing, tools, machinery, or other things capable of being owned. But rather property has reference to an individual's legal rights with respect to those things. There is the right to use, the right to exclude others, the right to sell, the right to devise, and others. A person's property in a given object then consists of the total bundle of rights he has in that object. Those different rights are all different items of property. They are not all of equal importance.

It is possible that one or more of them may be taken away while the others are left undisturbed. One of the dangers inherent in this possibility is that we might consent to having them taken away one by one until there is scarcely anything left in the bundle. Another danger is that we might let one slip away thinking that we can hold on to all the others and then discover too late that that one, the one we have surrendered, is the one upon which the very existence of all of the others essentially depends.

The particular right involved in title IV is the right to sell. And here I am using the word "sell" to include the right to transfer for a term, that is to say, the right to rent or lease. In an effort to evaluate the importance of that particular right it might be well to begin by reminding ourselves briefly of a bit of history that all of us have been taught but which we might have a tendency to forget in this age when we are more concerned with the enjoyment of the fruits of freedom than we are with the sacrifices necessary to achieve it. And I might say necessary to maintain it.

And if I seem to dwell too long on what appears to be history of a bygone age, my purpose is to call attention to the fact that the right to sell, the right that is under attack in title IV, is the very right which supports and sustains most of the civil and political liberties held sacred by all Americans. While we might overlook that fact in our day, the Founding Fathers certainly did not forget it in theirs.

From the very foundation of our Republic, and in English Jurisprudence even before that, down to the present time, our legal system has considered the right to sell as an essential feature of any free society. Some of our State constitutions have provisions declaring the right of property to be "before and higher than any constitutional sanction." (Arkansas constitution, art. 2, sec. 7.)

And more recently it has been declared that, "In organized societies the degree of liberty among human beings is measured by the right to own and manage property, to buy and sell it, to contract." (Garber, "Of Men and Not of Law" 34 (1966).)

Now one, certainly, is justified in asking whether all these assertions are mere examples of holiday rhetoric or whether they actually do epitomize the lifeblood of freedom and the building blocks of a free society and economic stability.

A close examination will reveal that it was the right to sell, to give away, or even to dissipate one's interest in property that enabled the serfs and villeins of the feudal period to emerge from their servile status to the status of freemen.

Maybe it doesn't appear that there is any need to go back to that, but I think there is. It puts us right in our present predicament.

The men who occupied the land and tilled the soil were referred to as freemen even in the feudal period, but then, as is true in the minds of some men even now, freedom had become deeply involved in semantics. A freeman in that period could not transfer his holdings, which in practical experience meant he could not cash in on the fruit of his own labor without the consent of his lord, his lord representing an ascending political hierarchy with the crown, in other words the state, as the ultimate authority.

Of course the lord was under a similar burden so far as his efforts to transfer his own holdings were concerned. But his position was different in that his holdings were larger and of a higher order. He was economically secure and had a comfortable income.

It was the fellow who had the least that was under the heaviest burden for until the man higher up let loose, there was nothing available for the man on the bottom to acquire. And whether a clog on the right to sell is labeled a medieval doctrine of feudal tenure or a Civil Rights Act of 1966, its effect in the marketplace will be the same and the man at the bottom will still be the loser.

Of course it must be recognized that during the feudal period there were restrictions upon the right of inheritance, use, and other incidents of property ownership as well as upon the right to transfer. But the point to be made here is that the right to sell was the particular right that held the center of the stage, and until that right was achieved, political freedom and the whole gamut of civil rights, that we like to talk about so much, lay dormant, and it will become dormant again. And that right to sell, that economic mobility, or in the jargon of the profession that freedom of alienation, soon became the chief factor in the development of individual freedom of all kinds and it stimulated the economic development of property.

When the occupant of land became free to sell at a price agreeable to him without seeking the consent of his lord and without paying a fine to his lord for having done so, he began to take on the coloration of a freeman in the true sense of that word.

This might sound rather obvious to us, but we should remember that that right to transfer land has not prevailed throughout the world and has not prevailed throughout history. But where it has prevailed happens to be that particular area of the earth's surface where the better things of life we might say, the comforts, have been developed.

Ownership took on new meaning. It included a power to cash in as well as a power to use. And when that freedom was obtained men no longer remained serfs, they no longer remained slaves, and the economy no longer remained static. It is no mystery that the real beneficiaries of this political and economic transition were those who possessed the least, it was the "have nots" rather than the "haves."

With free economic mobility the fellow at the very bottom of the heap could exchange his services for a share in what was held by the man near the top. In this system of free exchange, not only was there no necessity for serfs or slaves but there ceased to be any place for parasites. Property tended to shift to those who put it to the most economic use. And there emerged the day of plenty which, although it is unique in the history of the world and is to this day confined to a comparatively small part of the earth's surface, it is so taken for granted in this country that we tend to forget its source.

But this personal liberty to deal in, dispose of, and profit from ownership of property did not come at a single stroke nor will it be lost at a single stroke. Its coming was a step-by-step process in which each step was characterized by a bitter struggle. Those who are already wealthy, who are already entrenched, who "have it made," are more likely to be interested in preserving their holdings than they are in searching for easier means of transferring it. But unless that right to transfer is recognized and is readily available, the "have not" fellow has little opportunity to improve his lot. The legal history from the feudal period into the industrial economy of our present era can be quite accurately described as a struggle for an expansion of the rights of property ownership available to the individual and it can be asserted with a high degree of confidence that if we retreat back into a lethargic age of tyranny, it will be a step-by-step surrender of those same personal rights. And let no one forget that it is a personal right that we are dealing with in title IV. It is the right of an individual to deal with the fruits of his own labors in the way that seems most pleasing to him. And if he is not free to sell that which he acquires, he will be much less interested in acquiring it. If the restrictions imposed by title IV are imposed upon the ownership of property, it is inevitable that there will be less incentive to acquire, build, and develop. This means that there will be less housing and you will not improve the housing of Negroes or anyone else by reducing the total amount of housing available.

You might point out to me that title IV doesn't take away the right to sell, that it takes away only a limited part of that right, that is to say the right to select one's own customers, and that is true. But how much have you withdrawn from the rights of a prospective seller when you have withdrawn or even restricted his power to choose the persons with whom he deals?

There is a 1965 decision in the North Dakota Supreme Court [*Holien* v. *Trydahl*, 134 N.W. 2d 851 (N.D. 1965)] that casts some light here. It held that freedom to select one's customers was such an inherent part of ownership that an arrangement entered into by the voluntary act of private parties requiring an owner, even though offering his property to a particular person before being permitted to sell to anyone else was void.

In the North Dakota case the restriction wasn't imposed by the State. No principles of constitutional law were involved. Nevertheless the North Dakota Supreme Court considered even this mild restriction on the power to select one's own customers such a state of ownership that it was not to be tolerated in a free society, even where the parties so desired.

It is doubtful if very many of our courts will go quite as far as the North Dakota court did, but it does illustrate the importance at least some judges have attached to the doctrine of economic mobility.

Title IV proposes, not only to permit a much greater restriction on the freedom to select customers, but to impose that restriction without regard to the wishes of the parties.

Now to say that a provision such as title IV will discourage building, and thereby make less housing available is no idle guess. Any kind of building, whether it be individual homes or apartment houses, calls for a substantial investment. It requires the assumption of substantial responsibility.

There will always be some people who will prefer the relative calm of remaining a tenant to the responsibility and uncertainty involved in ownership. And the tenant by preference group will necessarily be enlarged by anything that increases the risks of ownership without offering commensurate hope of reward.

There are a number of States, as you gentlemen are all well aware, that already have laws similar to title IV, although I do not know of any that is quite so broad in the extent of its coverage. I have not heard or read anything to indicate that housing is any more readily available to minority groups in these States than it is elsewhere. Nor should anyone be surprised at that.

The so-called ghettos, where members of a particular racial or religious group are congregated in large numbers are not brought about by the refusal of landowners in other areas to sell to the members of that racial or religious group. The thing that prompts a free man to sell is his own self-interest, and the price he receives is far more important in the marketplace than is the racial characteristics of the person from whom the price is being obtained.

Some of the high concentrations of a particular racial or religious group have developed because the members of that particular group chose to live near each other. Others have developed because the members of conflicting racial or religious groups have moved away. This tendency to move away until the minority becomes the majority is probably the biggest single factor in the development of what is popularly known as ghettos or ghetto areas.

I believe that each one of you can confirm that within your own experience, if you will just take a serious look at the Negro sections of the cities with which you are familiar—not what I say, not what you read, not anything else. Just look at those areas with which you are personally familiar and I dare say that you will find very few if any that have developed because of a refusal of persons outside that area to sell to Negro customers.

What you are more likely to find is that a once thriving white population has moved away. That is precisely what is happening in New York City, especially Manhattan at the present time. And New York City was one of the first, if not the first, localities in the country with a so-called fair housing law. And although it started in the city, it was soon extended to the whole State.

There is no evidence that I have been able to see anywhere that the statute has had any effect on the continued tendency of Negroes and Puerto Ricans to become concentrated in particular areas. Title IV makes no provision for preventing whites from moving away from these areas. We may say it would be sad if it did, but it doesn't. And yet this tendency to move away, not the tendency to keep others from buying, appears to have been the principal factor in the development of the existing ghettos.

But even if the freedom to select one's own customers should be considered less important than I have indicated, and if it did not have any depressing effect upon the economy and did not curtail the total housing available, the question still remains as to whether title IV will make it easier for a Negro or member of some other minority group to purchase appropriate quarters.

I should like to reduce that to very simple terms and discuss it from the point of view of a homeowner who is ready to sell his house and has listed it with a real estate broker. When a prospective buyer presents himself, there are many factors to be considered and many reasons might arise as to why the seller does not wish to deal with that particular buyer. The most important of these is usually the buyer's financial position.

Concerning that one item, uncertainties and doubts might arise that cannot be objectively demonstrated, but which are sufficient to discourage the seller, who will then choose not to deal.

Or on purely subjective grounds, but for reasons sufficient to himself, the seller might suspect that the buyer has such a personality that he will be difficult to deal with on the matter of the transfer of possession, condition of the premises at the time of transfer, or some other relevant circumstance of that sort. For any one of these reasons, or for no reason at all, the seller might elect to do business or he might elect not to do business with that particular buyer who has presented himself.

If title IV becomes law, how have you changed the situation? If title IV becomes effective, a potential seller will be in precisely the same position as we have described, except for one thing. In his mind now all customers, all prospective buyers, are divided into two groups. In the usual situation, for this is the main target of the limitation, one group will be whites and the other group will be Negroes. Let's say that our particular seller is unconcerned as to the race of the buyer, but he is still interested in these various objective factors previously mentioned.

Title IV tells him that if he rejects a white buyer for whatever reason, no explanation will be called for. But if he rejects a Negro buyer, he will subject himself to possible litigation, and the necessity of proving that the Negro was not rejected because of his race. What kind of proof will he present?

As already indicated, many of the usual reasons for refusing to deal with a customer are subjective, and they are not susceptible to judicial proof. But even if our seller succeeds in his proof, he will have been subjected to troublesome, embarrassing, and expensive litigation, in which no good citizen desires to become involved. Faced with this situation, with these two groups and these two prospects, what is the seller most likely to do? If he is at all prudent, he will avoid seeing any colored buyers.

Now I realize that the proposed law prohibits this, but such a provision just can't be enforced. It has been analogized by some people before this committee as being somewhat similar to the prohibition, but I think that is treating it too fairly. I would say it is much more analogous to a law prohibiting a man from kissing his own wife in his own home after dark. Anyone who knows anything about the buying and selling of real estate knows how easy it is to avoid offers he doesn't want to receive.

One method that I am told is currently a common practice in some areas where State laws similar to title IV are already in effect is that of managing not to be at home when the broker shows up with a Negro to look at the house. There are many ways that this can be done and still be absolutely immune from the detection by even skillful investigators.

But this is only one method of never receiving this unwanted offer, and while it has some practical shortcomings, I assure you that there are lots of ways that can be used, and no broker's office need be confined to any particular scheme.

The important thing here is what title IV has done to the Negro. The seller in our illustration had no objection to selling to Negroes. In the absence of title IV, he would have had no objection to seeing them or selling to any one of them who otherwise met with his approval. But now the danger of litigation that has been forced upon him is going to force him into searching for devious ways to avoid ever receiving the offers that he would have otherwise been happy to receive and possibly have been happy to accept.

Or let's take another illustration. There is the university professor who takes a year's leave of absence, in order to accept a temporary appointment at another institution as a visiting professor. He plans to move his family to the new location for 1 year. He would like to rent his house, and he has no objection to renting it to a Negro. But he wants to be reasonably sure that he can trust the tenant to take reasonably good care of his furniture.

He also knows that if he rejects a prospective tenant who happens to be a Negro, he might be called upon for the same kind of proof that was demanded of the seller in our previous illustration. But here the real reasons are likely to be even more subjective and less susceptible of proof than they were when a sale was involved.

As a result, the professor is likely to employ some scheme similar to that used by the seller, or he might decide to avoid the difficulty by leaving his house vacant for the year.

If he chooses the former, a prospective Negro tenant has been deprived of the opportunity to bid on an accommodation that was actually on the market. If he chooses the latter, there will be one less housing unit in that city that year than would otherwise have been the case. In one instance, Negro tenants are the losers, and in the other, all tenants, both Negro and white, are losers.

Someone might ask "what about the seller who refuses to sell for no reason other than the race of the buyer?" We must assume that some sellers of that type do exist, but I would suggest that any estimate of their number is likely to be based more on emotion than it is on fact.

It should be pointed out, however, in order for them to exist at all, there will have to be a seller who is more concerned about the race of his buyer than he is for the purchase price that he receives. I doubt if there are very many sellers who are that oblivious to the power of the dollar. But even if they exist in large quantities, they will always have available to them all the devious subtleties employed by the nonprejudiced sellers who are merely trying to avoid exposure to litigation. Their apprehension will be next to impossible.

If title IV becomes law, it is going to have two significant effects in my judgment. It is going to discourage building, and it will deprive the members of minority groups of opportunity to compete for the housing that remains available. The entire bill, gentlemen, should be rejected.

Senator HRUSKA. Thank you, Professor Sparks, for your statement. It represents a fine addition to our record on this very important legislation.

You have gone into some of the situations where, by devious routes, a seller, a potential seller or one who wants to sell, could probably circumvent the law. You have also outlined some of the unfairness that might be thrust upon him in certain specific situations.

One situation which has been called to our attention, and discussed in some detail is this: Where a price will be asked let us say for the purposes of convenience, a price of $20,000. All of us know what happens when a house is offered for sale. A price of $20,000 is quoted, and perhaps it will be a price that the owner at that time would be willing to accept.

A potential buyer appears and says, "I will buy it." He will offer $18,000 rather than the $20,000. And the offer is refused.

Time goes on. The owner must sell for some reason. The man who bid the $18,000 disappears. He is not there to renew his offer. Eventually the house is sold for $17,000.

Now, under those circumstances, if that prospective buyer who bid $18,000 can come along and show that the actual sale was for $17,000 to a white man, and he himself was colored, what do you think the court will do under circumstances of that kind by way of entertaining proof? What would be the situation with reference to the owner of that house in a legal way?

Mr. SPARKS. It is very difficult to predict precisely what would happen there, but what I would expect to happen, if I understood you correctly, it is the Negro buyer who offered at one time $18,000 for a house that is now sold for $17,000?

Senator HRUSKA. That is right.

Mr. SPARKS. Once he has shown that fact, I think that there is going to be such a presumption against that seller in most of our courts that he is going to be in real trouble,

and I think what is an even greater danger is that when he is about to sell it for $17,000, but he hasn't really sold it yet, and our Negro buyer who offered $18,000 will come into court asking for injunctive relief.

The court will enjoin our seller from selling it at all. And now let's suppose that our seller can go on through with his proof, and that he can convince the court that his reason was not racial. By the time he is through with his litigation, it is likely that both buyers will have faded away, and he still has an unsold house. I think that is really likely to be the result.

Senator HRUSKA. That was in the thinking of those who have advanced that type of situation. The restraining order, even the temporary restraining order provided for is a pretty severe remedy.

Mr. SPARKS. Yes; it is.

Senator HRUSKA. A pretty severe remedy, and one in which normally there is required the posting of a bond.

Mr. SPARKS. And unfortunately we have the specific provision in this bill as it now stands that not only will he not have to post a bond, he will not have to be responsible for attorney's fees. He can do it purely for annoyance, with nothing to lose.

Senator HRUSKA. What about the man who does come along and buy a house from a seller? What assurance will he have that there are no clouds against the title of that house on account of dealings of that seller with someone else which were not successful and not fruitful toward the sale?

Mr. SPARKS. I have thought of that very thing here, and so far as anything I can find in the bill, it doesn't specifically cover it, but in view of this provision for injunctive relief, for equitable relief of all kinds, it is almost a completely blanket clause, I assume that the sale might be set aside, and if it is, well, then all real estate titles are going to be uncertain.

Senator HRUSKA. And there is a period of 6 months within which suit may be brought.

Mr. SPARKS. Right.

Senator HRUSKA. And until that time has run there would be a cloud as we lawyers like to call it, a cloud on the passage of title.

Mr. SPARKS. And once we have a decision to that effect in court, we have immediately clouded titles everywhere. Even assuming that some lawyers are not afraid of the bill itself. As soon as we have the decision we do have that cloud, and real estate transactions are going to be in a state of turmoil that they have not been in in this country heretofore.

Senator HRUSKA. Of course, we could require that the money be put in escrow for 6 months and the transaction be consummated 6 months later, but that would represent a real impediment in the ordinary course of commerce, wouldn't it?

Mr. SPARKS. More than that. Usually when you are buying a house, if it is a house for a home, it is because you are moving to that community and you need to get in it. And if it is for business purposes, which could be equally covered here, the situation is equally bad. If I am ready to go into business, I am either going to go into business or I am not. I can't wait 6 months for the determination of this title before I do any building on it.

Senator HRUSKA. Mr. Counsel, have you any questions?

Mr. AUTRY. Just two, Mr. Chairman.

Professor, it has been called to the subcommittee's attention that successful voluntary projects have been assumed around the country in integrated communities whereby neighbors get together and establish arbitrary quotas and maintain an integrated community.

Since these actions are by definition based upon sale according to race and color, this would be absolutely outlawed by this bill, wouldn't it?

Mr. SPARKS. I would assume that it would. You asked for my opinion. If it is at all relevant further, I think that kind of arrangement is extremely unwise in any event, because what you are doing then, you are laying down racial or national origin patterns for housing and for living and for business. You are really establishing the very thing which we thought we were wanting to get away from.

Mr. AUTRY. Professor, the Attorney General, as you may know, advanced two theses to justify this legislation: first, humanitarian—more housing should be available to Negroes; and secondly, that the absence of a title IV provision nationally provides us with an adverse impact on interstate commerce.

I think your conclusion is that title IV would have exactly the opposite effect of that which the Attorney General professes.

Mr. SPARKS. That is my position. I cannot conceive of how you are going to increase the quantity of housing available by making it more difficult to build a house, and you are not going to increase the amount of housing available by imposing extra burdens upon the man who sells a house. You are making it more difficult for him to sell.

You are making it more difficult for him to get rid of it. You are complicating his building. You are imposing added burdens upon his ownership. If he decides to rent it, he is at the same disadvantage, only even more so.

Mr. AUTRY. Thank you, Mr. Chairman.

Senator HRUSKA. Thank you, Professor Sparks, for your appearance before this subcommittee.

Mr. SPARKS. Thank you.

Senator HRUSKA. We stand in recess until 10:30 tomorrow morning in this same chamber.

(Whereupon, at 1:15 p.m., a recess was taken until 10:30 a.m., Wednesday, June 15, 1966.)

Mr. DIRKSEN. Mr. President, I invite the attention of the Senate to the fact that I believe this is a self-defeating bill, if it had any other virtue. No one rendered better testimony than Arthur F. Mohl of the Association of Real Estate Boards from the State of Illinois. He was accompanied by Robert E. Cook, executive vice president.

Mr. Mohl states the case quite well as to what he foresees.

He says:

Title IV requires a citizen to unwillingly rent or sell to another citizen.

Such a requirement might be just if it were in the public interest, but here it is improperly invoked for the benefit of one citizen against another.

The second point he made in his statement was:

Title IV make no contribution to the problems of the ghettos as evidenced by the fact that New York City—with such a law for 8 years—has experienced serious riots and had a 65-percent increase in substandard housing units over a 10-year period, while Chicago—without such a law—had no major riots and had a 33-percent reduction in substandard housing units.

Mr. President, how do you account for it? He said housing law in New York never lifted one individual out of the ghetto. In Chicago there was a reduction of 33 percent in substandard housing, and no riots, with no housing law, whereas in New York City, where there is the biggest ghetto in the country, there was a 65-percent increase in substandard housing. What does it prove when it comes to open housing?

Those are two brief points made by Mr. Mohl. There are others I could refer to at this time, but I ask unanimous consent to place his statements in the RECORD, where they can be read.

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

STATEMENT OF ARTHUR F. MOHL, ON BEHALF OF THE ILLINOIS ASSOCIATION OF REAL ESTATE BOARDS; ACCOMPANIED BY ROBERT E. COOK, EXECUTIVE VICE PRESIDENT

Mr. MOHL. That is correct, sir.

Senator MCCLELLAN. Will you identify yourself for the record then?

Mr. MOHL. My name, Mr. Chairman, is Arthur F. Mohl, of Chicago. I have been engaged in the real estate business in Chicago for 30 years. I appear here as spokesman for the Illinois Association of Real Estate Boards, and unofficially as spokesman for those millions and thousands of frugal property owners whose best interests are in jeopardy.

We urge the rejection of title IV of the Civil Rights Act of 1966 for the following reasons:

1. Title IV requires a citizen to unwillingly rent or sell to another citizen. Such a requirement might be just if it were in the public interest, but here it is improperly invoked for the benefit of one citizen against another.

2. Title IV makes no contribution to the problems of the ghettos as evidenced by the fact that New York City—with such a law for 8 years—has experienced serious riots and had a 65-percent increase in substandard housing units over a 10-year period, while Chicago—without such a law—had no major riots and had a 33-percent reduction in substandard housing units.

Senator MCCLELLAN. I thought you were about to have a riot in Chicago this week, were you not?

Mr. MOHL. We did not call it a major riot, Mr. Chairman. We do not think it had any racial——

Senator MCCLELLAN. We have got these riots down now to where we classify them as little, mediocre——

Mr. MOHL. We do not think it had any housing or racial overtones.

Senator MCCLELLAN. Very well.

Mr. MOHL. 3. Title IV has no means for defining its violation unless the accused admits violation. Most property owners refrain from assigning reasons for refusal to sell or to rent. Inevitably those who prosecute pressure the accused into having to prove his innocence by making him assign a reason for refusal. And if he assigns a reason based on behavior, he exposes himself to character defamation charges.

4. Title IV becomes self-defeating in its application. The Chicago community of single-family homes known as Marynook has achieved reasonably stabilized integration. Its concern is to persuade as many whites as Negroes to buy and move in—and thus far it has succeeded. With title IV on the books Marynook would become all Negro, because the residents would be prohibited from holding out for a white buyer.

Even though they may not acknowledge it, Lake Meadows and Prairie Shores, which are privately owned urban renewal projects in Chicago and which are successfully integrated, use quotas in order to maintain stable integration, but title IV would make such a system illegal. The report of Chicago Housing Authority chairman, Charles Swibel, on October 26, 1965, stated clearly that despite its nondiscrimination policy, it cannot

achieve integration so long as it is not permitted to assign apartments on a quota system.

As an example, its Leclaire Courts project, in an all-white area started out 80 percent white in 1950 but by 1965 its white population was down to 4 percent.

Senator McCLELLAN. Why is that?

Mr. MOHL. Why is it?

Senator McCLELLAN. Yes.

Mr. MOHL. Because it follows naturally that when a predominance of Negroes move into a building, a predominance of white people move out. This is a human nature fact of life.

Senator McCLELLAN. Can we change that by law, by compulsion?

Mr. MOHL. You cannot change human nature by compulsion of law.

Senator McCLELLAN. That is what we are trying to do, are we not?

Mr. MOHL. I agree with you, sir.

Senator McCLELLAN. Proceed.

Mr. MOHL. Most successfully integrated communities maintain benevolent quotas, which title IV would outlaw.

Gentlemen, title IV attempts to deal unnaturally with human beings. We believe, therefore, that the enactment of title IV would contribute to, rather than thwart the growth of, segregated neighborhoods. For this reason alone we urge the subcommittee to reject title IV.

We submit that any law which attempts to regulate a personal relationship between two individual citizens, where the public interest is not involved, is un-American and undemocratic. It is a device by which minority rule prevails, for the great majority of citizens have opposed such a law each time they were permitted to vote.

We hope that the subcommittee in its consideration of title IV will weigh carefully the future consequences of enacting into law a concept which prohibits private individuals from exercising some degree of selection in the choice of those with whom they will execute a contract for the sale or rental of property. The American is basically an individualist who guards carefully his inherent right to choose his friends, his associates, and those who desire to share his residence whether it be a home, a duplex, or a multifamily structure.

The problem in race relations which develops in the intimacy of housing is far more complex and more delicate than those in education or in employment. We are fearful that the injection of the legal force of the State in the making of these choices will generate resistance and bitterness which would inevitably retard, rather than advance racial amity. For decades, progress in race relations was slow, but now it is improving rapidly for every year sees more and more integrated neighborhoods achieved through natural voluntary methods.

We strongly urge that you do nothing to impede progress, for progress is being made. Let us not forget that in California the people voted 2 to 1 against legislation such as title IV, nevertheless, through voluntary efforts they are achieving notable results.

For example, for the first 11 months of 1965, of the 286,406 listings in all of the State's multiple listing systems, less than six-tenths of 1 percent contained some racial restriction. This is an example of voluntary effort toward open occupancy which I am sure is being duplicated throughout the United States. Give this a chance.

We hope you will reject title IV.

I appreciate the privilege of appearing here, Mr. Chairman.

Senator McCLELLAN. Thank you.

You did not identify the gentleman with you. Will you identify yourself for the record?

Mr. COOK. Yes, my name is Robert E. Cook, executive vice president of the Illinois Association of Real Estate Boards.

Senator McCLELLAN. Do you wish to make any comments, Mr. Cook?

Mr. COOK. No, sir.

Senator McCLELLAN. Very well.

Do I understand this law, you made some reference to it here, this proposed title IV would apply to a room in one's residence if he wanted to rent it?

Mr. MOHL. I am not sure, but I believe it does.

Mr. COOK. Yes.

Senator McCLELLAN. The way I read it, it does. There used to be such things as folks having a spare room to rent. I think that still exists to some extent.

Suppose a family in their residence had a spare room that they wanted to rent. Now apply title IV to that and tell me whether there could be any discretion, any choice made by the owner, by the residents of that home, as to whether he could have a white tenant, a colored tenant, a Baptist, Catholic, or a Muslim.

Could he make any choice, discriminate in any area whatsoever?

Mr. MOHL. The definition under title IV includes any portion of a structure, which would include the room.

Senator McCLELLAN. What we would call a spare room?

Mr. MOHL. That is correct.

Senator McCLELLAN. Which one sometimes wants to rent.

What was that fellow's name, X, Malcolm X, if one of his tribe came along and said "I want to rent this room, you have got it advertised here for rent, I will pay you the price", if they declined to rent it to him because of his religion or because of his color, this proposed statute would apply, would it not?

Mr. MOHL. It certainly would.

Senator McCLELLAN. What would the penalty be?

Mr. MOHL. There is money penalty up to a $500 fine.

Senator McCLELLAN. Up to $1,000, is it not, or is it $500?

Mr. MOHL. It is $500.

Mr. AUTRY. That is punitive damages.

Senator McCLELLAN. This is punitive, that is damages up to a $500 fine and a year in jail, is it not?

Mr. MOHL. That is correct.

Senator McCLELLAN. The sentenced can take his choice, the owner of the property. He can rent it or Mr. Malcolm X can make him pay a fine and he can go to prison for a year. Is that what we are coming to in this country?

Mr. MOHL. That is correct.

Senator McCLELLAN. Thank you very much for your appearance?

Mr. MOHL. Thank you, Mr. Chairman.

Senator McCLELLAN. The next witness is the Reverend Walter Royal Jones.

All right, you have a prepared statement.

Mr. DIRKSEN. Mr. President, next I would suggest—and this is honestly done—that a political theme has been appealed to in order to get this title in. It has been said to me, "Do not oppose title IV. You are going to hurt your party."

Suppose they had said that to Abraham Lincoln? Do you think there would be a monument to him which is viewed by 1½ million people a year, looking at that noble figure in the subdued glow in which it stands in that monument? Do you suppose it would be there if Abraham Lincoln had caved in when they said, "Do not do that. It is an unpopular thing. It is no good for your ticket?"

What is to come first, the principle or what is good for the party?

It has been said that not to adopt this provision is an invitation to violence. I have some headlines here ostensibly in connection with the statement the Attorney General made the other day that it might be an invitation to violence if we do not do something.

Mr. President, do we legislate in an atmosphere of pressure? Do we legislate under the intimidation of "Do it or else?"

There may be cases such as we are reminded of in relation to Sam Yorty. We had a visit last night. It could be said, "You fire the chief of police." For what? For doing his duty? Or would we have a man suspended under the enabling authority of State law? Why? Because he did his duty? Are those the pressures? Are we to listen when it is said, "You had better be careful. You may hurt your party"?

Mr. President, I do not want to hurt my party, but, on the other hand, I do not want to commit my party to a miserable surrender and opportunism. When that happens I will look at the habiliments of my party all over again and begin to wonder whether it is worthy of the suffrage of the people.

Are we to follow the pontificators, the editorial writers, the social engineers, the world savers, who have been chanting all of these things? No; when we get down to it, it is the principle we must look at.

When it comes to marches and demonstrations, I wonder if demonstrations have become a way of life. Maybe we can perfect a pattern for them. If you are frustrated, if there is something you want, if there is money in the treasury to put up, whether it is the city, county, or State treasury, "Organize and demonstrate and stay at it. Scare the hell out of them. Say you will take them to the cleaners at the polls, and maybe they will come through."

Well, this Republic was not built on that kind of philosophy, I can say, and it is not going to survive living on that kind of philosophy, either.

I want to say something about some of the provisions in the bill, and I will give line and page. I refer to paragraph (7) of section 403 of the House bill. It states that it is unlawful:

> To engage in any act or practice, the purpose of which is to limit or restrict the availability of housing to any person or group of persons because of race, color, religion, or national origin or number of children or the age of such children.

I repeat—any act or practice, the purpose of which is to discriminate.

That is the world with a fence around it. That is the whole kit and caboodle.

Any act and every act can be decided as coming under this provision. One will be able to be hauled up and charged under it. It is subject to the supervision of the Department of Housing and Urban Development and the Fair Housing Board, and the courts will have jurisdiction over any act which comes within the prescription of the preceding sections where people will be told what they can or cannot do. So that any member of a minority group must receive preferential treatment in order to

avoid the consequences of civil or criminal contempt.

How vague can we get, and what kind of cloud of fear can we put upon people?

Next, I call attention to what I refer to as freedom of choice.

Mr. President, with me, freedom of choice goes back a long way. In fact, it goes back to the Garden of Eden, because form came out of formlessness. Then came structure. Then came creation of all the things necessary. Green earth. Seed. Has it ever occurred to Senators that in Genesis they did not overlook seed? It had to be there for the continuity of the world. Otherwise, we could not have continued to live from generation to generation. Then came the only creature that was created with intelligence, a soul, a personality, the prospect of divinity. There he was, this lonely creature. He had a beautiful home, if a garden can be called a home. God made it without the aid of the Housing Administration. They were not even around then. And the Lord looked down out of the vaulted spaces at this lonely creature and thought he ought to give him a consort. He waited until he fell asleep, and then he took a rib from him and created the magnificent thing called Eve.

She was a side issue then. She is the whole business today. [Laughter.]

Then came the tree. And what did the Lord say? He said, "Do whatever you want, but don't eat of the fruit. If you do, you die."

He did not go down to the hardware store and buy 10 rods of fence 12 feet high, and put it around that tree. He just said, "Don't eat. If you do, you die, and there has to be an atonement for it."

What was He doing? He was giving them freedom of choice. He said, "I leave it to you, Adam; I leave it to you, Eve, whether you want to take of the fruit. I don't care whether you take of it. But if you do, remember, you die. You become mortal, and somebody has got to atone for it."

That is the whole basis of the Christian faith, the doctrine of vicarious atonement. There it is, in all its beauty.

He was giving them freedom of choice. That is where it started. And every time we impair it, somehow or other we are the poorer for it.

We refer to a man's home as his castle. However, we say to the homeowner, "Well, we are going to exempt you under this bill, provided you give an express written instruction to your broker, if you want to sell and you are going to get a broker. Otherwise, there is not going to be any exemption so far as the broker is concerned."

What is the matter with me meeting a broker on the street and saying, "Joe, I want to sell my home. It is out on Kenilworth Avenue. I'll take $28,000 for it."

"You're on. It's a deal."

Well, I thought, under the first amendment, that was pretty good law. But no; now you are going to have to put it in writing, to exempt that broker, if you are going to do any business with him. So, you see, your freedom of choice is going to be somewhat restricted.

But do not forget, there is also a housing board involved here, and they have powers to the sky to issue restrictions. Suppose they come in and say your instruction has to be under oath. You are going to have to swear, and there is going to have to be a record, and the record can be publicly examined. Where is your freedom in that kind of deal, I would like to know? I give up.

Those are the gimmicks that have been put in here, and people do not know it. A lady from Michigan called me up—I think from Jackson, Mich.—Sunday morning, and did she lay me out on the telephone. I took it, for a little while. Finally I said, "Madam, I beg your pardon"—being a very temperate and restrained person—"but did you ever read the bill?"

She said, "No, I have not. I haven't even seen it."

I said, "Don't you think it is a rather unwarranted presumption on your part to lecture me about this bill, when you haven't even seen it?" I added, "Madam, I try to be courteous, but I hope you don't mind if I hang up on you." And I hung up on her. Maybe she is sore. I suppose if she came down to my country, she probably would not vote for me.

But, you see, in the time period that has been available, there has not been a chance to explore these things. So when we come to the question of cloture this afternoon, how are you going to justify a vote for cloture, when there has been no examination, to speak of, of title IV and other titles in this bill?

Now, they have another fancy gimmick in here. There is a provision that if you have had three transactions with respect to your house, as an owner, you lose your exemption. What kind of transactions? They do not even define a transaction. A man out in Peoria, Ill., may be told by the management of Caterpillar, "We are going to move you to Cleveland, Ohio, and you have to go right away."

The man may protest, "I have got a house. I can't find a buyer that soon."

"Well, you do the best you can. You list it."

So he lists his house; and maybe a buyer will come along before he even gets gone. Then he says, "Well, I have to have a place to live in Cleveland."

"Well, go down to the hotel or one of the apartments, and rent a little while."

Is that two transactions, or is it not? The bill just does not say.

The man gets to Cleveland, and he finds an apartment. That is a third transaction. Maybe finally he makes a downpayment on a house. That would be a fourth transaction. You will find no definition in here as to what constitutes a transaction. That is how vaguely and how carelessly this bill has been drawn. I am amazed at the draftsmanship of the thing.

Of course, they got in Mrs. Murphy's boardinghouse—where is Brother Aiken? You ought to look at the language of the Mrs. Murphy's boardinghouse section. It applies only to rented rooms. You see, they scaled down Mrs. Murphy very considerably in this bill, and put a very considerable limit on her.

One of the funniest and most fantastic things that the House put in here is that you discriminate if you inquire as to the number of children in the family—that is one discrimination—and you discriminate again if you inquire as to their age.

Now, because I have seven or eight children, and here is a house that would accommodate only a family of father, mother, and two children, but that is all the money I have got, I say " I want to buy your house. You have it for sale; there is a for sale sign there. I have got the down payment, and here it is."

"But I can't sell it to you. You have too large a family."

"You are discriminating. I am going to charge you. I am going down and file a complaint."

So you find yourself in duress, and you are going to have to get a lawyer. A free lawyer, I suppose. I guess both parties get free lawyers now. That is going to be "ducky." I do not know what we are going to do with the lawyers in the country; there is not going to be any business for them, after awhile, except government business. But that is going to be the situation, if they do not take account of some of the limitations.

Let me tell you what the Illinois law says. The Illinois law says it is unlawful for a landlord to permit a room to be used for sleeping purposes that does not contain 400 cubic feet per person.

Suppose I have eight children, and I am going to buy a house or rent a house that will accommodate only four people. The law of Illinois says 400 cubic feet or more of airspace for each person sleeping therein.

What do you think is going to happen? Why, the State law and this business are going to come into a head-on collision. In New York, the law limits the number of adults who may occupy a room for sleeping purposes to two. No more than two, under the New York law, are supposed to occupy the same sleeping room—counting two children between the ages of 2 and 11, inclusive, as one adult. So if there are two children, then, of course, you count them as one, and, with the parents, you would have three.

The New York law also provides for a minimum of 400 cubic feet of airspace per adult per room. What are you going to say about that, when this fellow says, "You are discriminating; here is the downpayment for the house. You are not willing to sell it to me, when I am ready and willing buyer, and you say no."

So you make the deal. And after you make the deal, there comes the landlord commissioner, or tenant commissioner, or whoever it is, and says, "You are violating the law." What happens to the deal then? Is it all up in the air, as an illegal deal? I do not know.

I welcome back to the Chamber my friend, the Senator from California [Mr. MURPHY]. How delighted we are to have you back. In your State, you are a little more generous with people.

The law in California provides that every room used for sleeping purposes in buildings within a city shall contain at

least 500 cubic feet of air space for each occupant.

Suppose I go out there to one of those fancy suburbs. There is a nice little house that I can afford to put a down-payment on.

The owner says, "You have got too many kids."

I said, "I will do it anyway." If he does not come through, I will say, "You are discriminating."

After a while, after we have made a contract, he discovers that there is a statute on the books. He says, "Why by golly, there is a statute on the books in California. It is California Code, Annotated, Health and Safety Code, Section 19300. It provides that there must be at least 500 cubic feet of air space for each occupant."

Have they paid any attention to that in the proposed bill? No. They do not define transactions. They include vacant lots and then take out the vacant lots. They just commit mayhem on the proposed bill.

They say, "Oh, this is all right. We will get 60 percent of all the available space. It will come nicely packed in the proposed bill."

If ever there was a can of worms, or two cans of worms, this is it. So much for children.

Just think of putting such a fantastic thing in a bill as the number of children and the age of children. Such a provision will become the rental base in this country just as surely as we occupy this Chamber if we ever put such a provision on the books.

I call section 403(a)(4) the best effort section. The House also added that provision.

It provides penalties for a broker failing to use his best efforts to consummate any sale, rental, or lease because of race, color, religion, or national origin.

Suppose I make a contract. I am going either to buy or to sell for someone. I work at it for a couple of months and I do not come up with a deal. The *fellow comes* around and says to me, "You did not use your best efforts, and section 403(a)(4) says, 'You shall use your best efforts.' I am going to charge you and I am going down to file a complaint and get a free lawyer."

How do you prove that a man has used his best efforts? All he can say is, "Why, Judge, I did the best I could." That is the only proof that he can offer. You cannot climb inside of his cranium and see what thought processes go on there.

The man stands before the court and he is helpless because there is not any way under the canopy of evidence to prove that he did or did not use his best efforts. However, that is what this would provide.

There is, then, the oral statement idea. The House added some rather significant language in section 403(a)(3) by proscribing the making of an oral statement indicating any preference, limitation, or discrimination, and so forth.

I have a room to rent. It is right close to a beautiful synagogue. I say to somebody, "Look, I think you would like to rent this room. It is right handy to the synagogue, and since you are Jewish, and there is the synagogue, it would be ideal for you."

You are not supposed to do that.

Suppose I am located in the vicinity of the University of Notre Dame, and I put a little ad in the paper.

Let us say the ad would read: "Lovely, large, sunny room; beautifully furnished, and ideal for two young men of the Catholic faith." That would be expressing a preference and would be unlawful. Such an act would become the basis for a charge. Maybe they could not make the charge stick, but that is the potential of the entire proposed bill.

I am afraid that we have not given anywhere near the attention to the proposed bill that it so richly deserves. There are so many items contained in the measure that one has a hard time to get around to it.

Some fancy language was contained in the bill concerning punitive damages. Somebody raised a question concerning this and said that it should not be done.

They then put a limitation of $500 in the bill and, after thinking for a while, they finally decided to strike that out. They thought they had improved the situation immensely. Instead of going into details, they merely put in the words "Actual damages."

"Actual damages." That is the whole kit and kaboodle. There is no limit as to what you can be charged with and the damages that can be requested. However, that is the way the House sought to improve the bill, by striking out the words of art and adjectives and just including the words "actual damages." There you have it, all in a bushel basket. That is wonderful.

There is one thing that I probably ought to allude to, and that is the question of representation. You can file a complaint, or it can be filed by your representative. It does not say your legal representative. It says your representative.

Who will represent you? If you are a person of color, and you want to file a complaint, the NAACP, CORE, the Congress of Racial Equality, or SNCC—Stokely Carmichael and his crowd—can represent you. If they can get enough money, they can hire the necessary lawyers. They will go down to court and do the talking.

You talk about subsidized litigation. Well, this is going to be it before we get through, believe me.

We have provision for a housing board. I can say a lot about that, but there is only one thing that I am going to say and that is that every time you want to work up a bill and you do not want to do all the leg work to dig out the details and recite them in the bill itself, you can just use one of those fancy phrases such as, "Notwithstanding any other provision of law." That covers a multitude of sins.

We do that same thing when we refer back to some other law in order to give broad powers to some new creature. There is a new creature here. It is the Housing Board.

The members are to be confirmed by the Senate and they have vast powers of subpena and investigation along with the Department of Health, Education, and Welfare, or Housing and Urban Development. That is what the bill provides. It says that discriminatory cases shall be treated as unfair labor practices, and they shall have the powers of the National Labor Relations Board. That includes the power to issue orders to cease and desist.

I will never vote for that kind of power where there is so much emotionalism, so much danger, and so much social ferment. That is what the proposal that is before us says.

So we are to be asked to vote on cloture and to shut off debate, when there has not been any discussion about the subject. We had better be careful before we get through. There are so many things that I could place in the RECORD; these are just a few. But I think they are enough to bring to the Senate's attention what I think about the measure.

The bill ought to be shelved, and it ought to be shelved for good at this session. I am confident that another start will be made next year; but we will have had our lesson, and we can come back and, if we have time, take ourselves a good look. By that time, we shall have been able to appraise the sentiment of the country and see what the people think. If they think what I think they think, I believe there will be some surprises in high places before we get through.

Let me reassert once more that I was glad to be in the forefront of the fights in 1957, 1960, 1964, and 1965. Then we had something with which to work. We did debate, and we did a job of beating out a bill on the anvil of discussion. We did a fashioning job before the bill came to the Senate. I thought we did an excellent job, and we had the will to stand up and be counted.

But I said to the Attorney General and to the President, "This bill is not for me." Last night, at the White House, I reaffirmed that to the President. So if there are any doubting Thomases, who thought I would beat a miserable retreat, they can get it out of their heads, because the word "retreat" does not appear in my book.

We should vote down any suggestion that there be cloture, because the bill has scarcely been considered on the floor of the Senate.

That is all I have to say. I shall abide the result when it comes later today.

Mr. SPARKMAN. Mr. President, I would like briefly to supplement my remarks of yesterday against the pending civil rights bill, which may be found in yesterday's CONGRESSIONAL RECORD starting at page 22379, by emphasizing that my opposition to this bill is not based entirely on the title IV housing provisions, which I oppose very strongly and to which I addressed myself yesterday.

As I stated yesterday I am prepared to debate this bill title by title and item by item, and in my preparatory analysis I have found it to be a very comprehensive and indeed a bad bill. Even the jury reform provisions of title I for the Federal courts have certain practically unworkable provisions for some districts throughout our Nation, which provisions

should be given far more study than they have yet received.

Title II of the bill would inject the strong arm of the Federal Government into our State jury systems, and I want the RECORD to show that I stand firm against this attempt to break the backbone of our democratic form of government in this country. It was the violation of the right of an accused person to be tried by a jury of his peers in the area where the alleged crime was committed that helped bring about the Revolutionary War, and our Constitution reflects this by the numerous references it contains to protect the right to trial by jury. I feel that it is mandatory to point out that this title as well as the whole bill should not pass.

As we approach a cloture vote in the Senate, I reiterate my consistent position for many years against closing Senate debate by mandatory action. This comprehensive and ill-advised bill affords a good illustration of why cloture should be defeated.

With reference to title IV, the situation was well presented in the statement made by the Alabama Real Estate Association, Inc., before Subcommittee No. 5 of the Committee on the Judiciary of the House of Representatives, which appears at pages 1711 to 1712 of the House hearings on this bill, and is as follows:

STATEMENT BY ALABAMA REAL ESTATE ASSOCIATION, INC., IN OPPOSITION TO H.R. 14765

The Alabama Real Estate Association, Inc., an affiliate member of the National Association of Real Estate Boards, and comprising some 2,000 members in Alabama, would like to present the views of the members of this Association in opposition to Title IV of the pending Civil Rights Act, H.R. 14765.

We do not believe that the bill in question will accomplish its intended purpose which is to provide "fair housing" to the peoples of this country. On the contrary, it will deny every citizen who is a property owner the right to sell or rent to a person of his choice; it will deprive every property owner of a basic, fundamental and individual freedom—the right to dispose of his private property as he chooses. It is incomprehensible that the same Constitution which provides the right to own property would deny the right to dispose of that same property to a person of ones' choice.

As members of the National Association of Real Estate Boards we support the statement of policy adopted by the delegate body of that organization on November 18, 1965, in Chicago, which is quoted in part as follows:

"We reassert our support of the principle of equal opportunity in the acquisition and enjoyment of real property and the right of individuals to determine the disposition of that property. This principle does not and should not establish special privileges for any particular group."

This is the first civil rights legislation aimed specifically at housing. All of the civil rights legislation previously introduced into Congress have sought to insure civil rights against the actions of local and state governments which were operating to deny certain civil rights to minority groups, or the actions of persons catering to the public. This piece of legislation, on the other hand, would abrogate the private rights of every home owner to dispose of his property as he chooses.

The issue is not open occupancy or equal opportunity to obtain housing for all people regardless of race, color, religion or national origin. The issue is whether government should be permitted to introduce an element of compulsion in the dealings of a property owner with the person who seeks to buy or rent his property.

The purpose of this so-called "fair housing" bill, it would seem, is primarily sociological and secondarily the alleviation of economic distress. If racial integration were a subordinate consideration, and if the primary purpose of this legislation is to afford people in minority groups a greater supply of quality housing, such can be accomplished without abridging the right of free decision on the part of the seller and rental owner of real estate. This need can best be met by the expenditure of public funds of this purpose and the establishment of private capital to augment the housing supply and meet the demands of minority groups for housing. A giant forward step was made in this direction through the enactment of the recent Rent Supplement Law.

This bill, if enacted into law, could be used as a weapon for forcing an unwilling owner to enter into a contract and would rob him of his freedom as an individual to enter, or not enter, into an agreement. If an individual lacks the right to dispose of his property freely and fully, within his own discretion, he is not truly the owner. Thus, the reality of this human right depends upon freedom of contract in disposition. This is a fundamental right in our society of free men. No segment of our people, including racial and religious minorities, can be well served by destroying it.

Title IV is premised on the mistaken belief that any rejection of an offer to buy or rent from a member of a racial minority is necessarily an act of racial discrimination. This view is presumptuous. Undoubtedly there are some persons who do refuse to sell a house primarily on racial considerations. However, there certainly are numerous other home owners who do not. Even though race might not be the reason a home owner declines to sell he could, under this bill, become involved in expensive and lengthy litigation trying to prove that his refusal to sell was not because of race.

Plain and simple justice would require that a seller or renter not be subject to the risk of financial loss at the hands of government without corresponding protection from the government which imposes that risk of loss. This bill makes no such provision.

The Alabama Real Estate Association is NOT against open occupancy nor equal opportunity to obtain housing. The Association believes this is a forced, not a fair, housing bill that deprives our citizens of the basic individual freedom of the right to dispose of their private property as they choose. We are faced with the issue of whether one person should be given the right to force an unwilling owner to enter into a contract at the expense of the owners' individual, human right. To deny any property owner freedom of choice erodes the rights of all the people.

Let us consider what would happen if Title IV should be enacted and our freedom of choice in the selling or renting of residential property is taken away. Will this end the matter? Clearly it will not. Open occupancy laws, once accepted as legitimate exercises of the police power, would eventually lead to a vast expansion of regulatory police legislation far beyond the legislation which is presently under consideration. This is certain to result because open occupancy laws will not accomplish the goals their proponents seek to bring about. Today open occupancy legislation would most surely lead to other and more vigorous measures.

If individual freedom is worthy of preservation, it behooves the Congress to mark well the distinction between public and private affairs and sparingly employ the force of law to coerce human conduct in the latter area.

We believe that the injection of the element of compulsion, of legal coercion, in the relations between a property owner and the persons with whom he may do business, is not in the best public interest and is inimical to the long range interests of members of minority groups; that progress in race relations will be retarded—not advanced—by this attempt to deny people freedom of choice. The solution to the problem of biracial living will come ultimately from the temporizing influence of the church, school and men of good will, and other such extra-legal sources, and not through exercise of the police system. The objectives of the struggle to obtain equal opportunity in housing are already being achieved. A change in our social structure of such magnitude will not be attained overnight. Voluntary actions to this end should be given every encouragement. Such efforts merit the earnest concern of all Americans, for the future of our free institutions may well be contingent upon its successful outcome.

The use of force—the employment of the police system, the destruction of the human right of real property ownership, the suppression of freedom of contract—are all destructive of the objective of biracial understanding. We ask, therefore, that Congress choose the traditional American way of voluntary effort and reject the alien way of the police expedient.

In conclusion we would like to quote Everett R. Treblicock, Counsel for the Michigan Board of Realtors, who, in our opinion, has so ably expressed the feelings of the great majority when he said: "America, while declaring itself to be a nation under God, has reserved to each of its citizens freedom to accept or reject the Deity as Their moods and convictions may dictate. We hold to the belief that it is totally inconsistent with such a tradition now to employ the force of government to compel the acceptance of one's fellow man in our private lives and affairs. For, in both our spiritual and our temporal lives, there can be no enduring fellowship with or respect for either our God or our fellow man which is not freely given each to the other."

Mr. MILLER. Mr. President, my policy on voting for cloture was published in one of my 1963 newsletters, and I ask unanimous consent that an extract therefrom be placed in the RECORD at this point in my remarks.

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

CLOTURE

It is difficult to forecast what kind of a bill will be reported out by either the Commerce Committee or the Judiciary Committee; or if legislation is bottled up in committee, it is difficult to forecast what kind of an amendment on civil rights will be offered on the Senate floor. We do not have a rule of germaneness in the Senate, so a civil rights amendment could be offered to any House-passed bill (as was done in the case of the constitutional amendment outlawing the poll tax). However, any strong civil rights bill or amendment is likely to be subjected to a filibuster. Senate rules require an affirmative vote of two-thirds of the Senators present and voting to invoke cloture (choke off debate).

I am not one of the Senators who is opposed to voting for cloture as a matter of principle, although I do believe it is a device which should be used only under exceptional circumstances and only after a reasonable amount of time has elapsed to give opponents of a bill or amendment an opportunity to make their case. That the racial unrest in some parts of our country amounts to "exceptional circumstances" is obvious. However, there are two factors which could have a decisive influence over attempts to invoke

cloture: (1) the reasonableness or unreasonableness of the bill or amendment over which a filibuster is being waged; (2) attempts to intimidate the Congress. It is this second factor which has both the President and many members of Congress deeply concerned. As a former member of Congress, President Kennedy knows from his personal experience how adversely members of Congress react against efforts to intimidate them. This is precisely why he asked that there be no "marches on Washington." His request has been rebuffed, but assurances have been given that there will be no "marches on Capitol Hill," no sit-in demonstrations in the legislative chambers' galleries and Senate and House Office Buildings, and that any activities will be orderly and peaceful.

Mr. MILLER. Mr. President, I might point out that I subsequently voted for cloture during the extended debate on the Civil Rights Act of 1964; and I had previously voted for cloture during the filibuster of the late President Kennedy's communications satellite bill by a group of self-proclaimed ultraliberal colleagues.

The rioting and violence that has taken place in recent months in several of our cities has, in some cases at least, been in the name of "open housing." However, according to reports of these unfortunate and misguided incidents, the objective was to secure action at the local level to provide equal opportunity for decent housing—not to put pressure on the Congress to pass a Federal law on the subject. Any such efforts to influence the Congress would almost surely result in no action at all; although I think it would only be fair to say that these locally directed riots and violence have had an adverse impact on the Congress.

The critical problems for me in reaching a decision on whether or not to vote for cloture, then, are these:

First. Whether a reasonable amount of time has elapsed for proper consideration of the measure being debated. This matter has only been up for discussion for a week, and I could not honestly say it has had more than superficial discussion—recognizing the far-reaching nature of not only title IV on open housing, but the other titles as well.

Second. Whether the bill being debated is a reasonable bill, a good bill, a constitutional bill. This is where my decision to not vote for cloture is most firmly premised; and it is reinforced by the decision of the proponents of this legislation to refuse to consider any modification in the bill at all. Their decision is unreasonable and shortsighted, and in this connection I ask unanimous consent to have printed in the RECORD at this point in my remarks the lead editorial from today's Des Moines Register entitled "No Rights Legislation?"

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

[From the Des Moines (Iowa) Register, Sept. 14, 1966]

NO RIGHTS LEGISLATION?

The Administration's civil rights bill appears headed for a deadend in the Senate and the first major setback for civil rights legislation in a decade. Senate Majority Leader MIKE MANSFIELD has let it be known that he intends to put aside the House-passed measure after a foredoomed attempt to cut off debate is made this week.

Congress last rejected major civil rights legislation in 1956, when the Senate failed to act on a House-passed voting rights bill requested by the Eisenhower Administration. A small portion of requested legislation was adopted in 1959, but the balance was approved the following year. The Civil Rights Acts of 1957, 1960, 1964, and 1965 ran into varying degrees of opposition, but Congress was able each time to deal with the filibuster threat and give the Administration most of its request.

The Johnson Administration appears on the verge of drawing a civil rights blank this year partly because of the nature of its request and partly because of timing. The request for legislation banning discrimination in housing touched a sensitive nerve in Northern as well as Southern constituencies. The Administration's proposal, moreover, was not well designed and needed extensive revision. The proposal was submitted at the end of April, did not reach the House floor until the latter part of July and is coming before the Senate less than two months before election.

The immediate roadblock in the Senate is Senator EVERETT DIRKSEN, the minority leader who has supported civil rights legislation in the past but is adamantly opposed to the housing section. DIRKSEN has also indicated opposition to sections of the bill to reform federal and state jury-selection procedures and to preserve election records.

We hope strong efforts will be made to pass a comprehensive civil rights bill with effective machinery for dealing with discrimination in housing. But inability to get housing legislation should not be allowed to frustrate action on all other civil rights problems. The House-passed bill contains vital sections to strengthen the hand of the government in protecting Negroes and civil rights workers against violence, to end discrimination in jury-selection and to authorize the attorney general to bring school desegregation suits.

These are less controversial and seem to us worth salvaging even if the price is no action on housing at this time.

Mr. MILLER. Mr. President, I am not at all satisfied with the provisions of title V, which is designed to protect civil rights workers. Nowhere is there a definition of a "civil rights worker," and the language is so broad that it would appear that a member of the Ku Klux Klan could claim that he was an "other person engaged in speech or peaceful assembly opposing any denial of the opportunity of another person or class of persons to participate in benefits or activities without discrimination."

I am deeply disturbed over title I, relating to juries. No one, I believe, thinks it to be fair to exclude from jury panels people because of their race, color, or creed; and that there has been such discrimination in some parts of our country is well recognized. The point is how is this evil to be remedied? And when a remedy is proposed, it would seem to me that the very least that ought to be done is for the legislative branch of our Government to seek the recommendations of the judicial branch, and more particularly the Judicial Conference of the United States and its committees. For some strange reason, the proponents of this bill have not done so, and I think it a serious mistake. It has been the practice of the Congress to refer all proposed legislation affecting the Federal courts to the Judicial Conference for its advice, suggestions, and criticism. Although this procedure may take more time, it has helped eliminate many undesirable features in proposed legislation. One of our outstanding Federal district judges has already commented to me that, in its present form, title I would place a tremendous administrative burden and expense on the Federal courts without really getting at the evil that is sought to be remedied. He points to section 1689 of the bill which provides that no one can be excused from jury service for more than 6 months at a time upon a showing of undue hardship or extreme inconvenience and brands this as "ridiculous," adding that there are many instances where undue hardship or inconvenience may require a juror to be excused for several years.

At the time President Johnson's bill was first introduced in the House, I commented that I had serious reservations over the constitutionality of title IV, relating to "open housing." To me, full enjoyment of the rights of American citizenship cannot be attained as long as there is discrimination in the sale or rental of housing. But this does not automatically lead me to conclude that the Federal Government has jurisdiction to legislate on the point. Where there is a Federal connection, such as a Federal loan, for example, that is one thing. But where there is no Federal connection, then the Federal Government simply does not have jurisdiction. The State and local governments do have jurisdiction, and it would be much better in the long run if this matter was decided upon by them and the people they serve. The Attorney General of the United States sought to find jurisdiction under the commerce clause of the Constitution because the building materials in a home have moved in interstate commerce. I am not at all persuaded by such an extreme attempt to stretch the meaning of our Constitution, much less by the so-called precedents he has offered to support his theory. Our Constitution was never designed to give the Federal Government all powers of government which can be created by extreme interpretations of the meaning of interstate commerce.

In November of 1962, the late President Kennedy issued Executive Order No. 11063, which directed all Federal agencies to take appropriate action to prevent discrimination in the sale, leasing, rental, or other disposition of residential property and related facilities. His action was taken under what he deemed to be a valid exercise of the regulatory authority the President has over the executive branch of the Government, rather than pursuant to any specific statute. The order covered only the initial sale of FHA-insured or VA-guaranteed housing, representing about 20 percent of the total housing in the country. Actually, President Johnson could, "with the stroke of a pen," extend Executive Order No. 11063 to include all housing which has any relationship to or benefits from the Federal Government. This would include conventionally fi-

nanced housing which is financed through banks and savings and loan associations whose deposits are guaranteed by FDIC or FSLIC, or which are supervised by the Federal home loan bank system. It has been estimated that Executive Order No. 11063 could be thus broadened to cover up to 80 percent of the total housing supply. And with respect to the balance, the State and local governments, which clearly have jurisdiction, could work on the problem of open housing in line with the needs of their respective jurisdictions.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House insisted upon its amendment to the bill (S. 1310) relating to the National Museum of the Smithsonian Institution, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. JONES of Missouri, Mr. THOMPSON of New Jersey, and Mr. CORBETT were appointed managers on the part of the House at the conference.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 16559. An act to amend the Marine Resources and Engineering Development Act of 1966 to authorize the establishment and operation of sea grant colleges and programs by initiating and supporting programs of education and research in the various fields relating to the development of marine resources, and for other purposes; and

H.R. 17636. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1967, and for other purposes.

## ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 3051. An act granting the consent of Congress to the compact between Missouri and Kansas creating the Kansas City Area Transportation District and the Kansas City Area Transportation Authority;

S. 3625. An act to designate the dam being constructed on the Allegheny River, Pa., as the "Kinzua Dam," and the lake to be formed by such dam in Pennsylvania and New York as the "Allegheny Reservoir"; and

H.R. 6686. An act to amend the Civil Service Retirement Act in order to correct an inequity in the application of such act with respect to the U.S. Botanic Garden, and for other purposes.

## HOUSE BILL REFERRED

The bill (H.R. 17636) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1967, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

## SEA-GRANT COLLEGES

Mr. PELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the bill, H.R. 16559, which was received from the House previously today.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. H.R. 16559, an act to amend the Marine Resources and Engineering Development Act of 1966 to authorize the establishment and operation of sea-grant colleges and programs by initiating and supporting programs of education and research in the various fields relating to the development of marine resources, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, H.R. 16559, which was read twice by its title.

Mr. PELL. Mr. President, I move to strike out all after the enacting clause and to insert in lieu thereof the language of S. 2439, as reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Sea Grant College and Program Act of 1966".

DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares—

(a) That marine resources, including animal and vegetable life and mineral wealth, constitute a far-reaching and largely untapped asset of immense potential significance to the United States; and

(b) That it is in the national interest of the United States to develop the skilled manpower, including scientists, engineers, and technicians, and the facilities and equipment necessary for the exploitation of these resources; and

(c) that aquaculture, as with agriculture on land, and the gainful use of marine resources can substantially benefit the United States, and ultimately the people of the world, by providing greater economic opportunities, including expanded employment and trade; the enjoyment and use of our marine resources; new sources of food; new means for the utilization of water, both salt and fresh; and other valuable substances, such as those contained in the vast mineral deposits of the marine environment; and

(d) that Federal assistance toward the establishment, development, and operation of programs by sea grant colleges and Federal support of other sea grant programs designed to achieve the gainful use of marine resources, offer the best means of promoting programs toward the goals set forth in clauses (a), (b), and (c), and should be undertaken by the Federal Government; and

(e) that in view of the importance of achieving the earliest possible institution of significant Government activities related to the development of marine resources and in order to utilize existing facilities within the Federal Government, it is fitting to authorize the National Science Foundation to administer and supervise the sea grant programs established pursuant to this Act until such time as functions and activities of the Federal Government for the promotion and support of programs related to the development of marine resources might be reorganized or consolidated.

GRANT AND CONTRACTS FOR SEA GRANT COLLEGES AND PROGRAMS

SEC. 3. (a) Subsection (a) of section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by striking out the period at the end of clause (9) and inserting in lieu thereof a semicolon, and by adding after clause (9) the following new clause:

"(10) to support the establishment, development, and operation of sea grant programs of education, research, and advisory services which are directed toward progress in the various fields related to the development of marine resources, in accordance with the provisions of section 18."

(b) (1) Subsection (a) of section 17 of the National Science Foundation Act of 1950 (42 U.S.C. 1875) is amended by inserting, before the period, a semicolon and the following: "except that for the purpose of carrying out section 3(a)(10), there is authorized to be appropriated to the Foundation for the fiscal year ending June 30, 1967, not to exceed the sum of $10,000,000, for the fiscal year ending June 30, 1968, not to exceed the sum of $15,000,000, for the fiscal year ending June 30, 1969, not to exceed $20,000,000, and for each subsequent fiscal year only such sums as the Congress may hereafter specifically authorize by law".

(2) Subsection (b) of section 17 of such Act (42 U.S.C. 1875) is amended by inserting, before the period, a semicolon and the following: "except that for the purpose of carrying out section 3(a)(10), any amounts appropriated to the Foundation for the fiscal year ending June 30, 1967, shall remain available until expended".

(c) The National Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.) is amended by inserting the following new sections at the end thereof:

"MARINE RESOURCES

"SEC. 18. (a) In carrying out the provisions of section 3(a)(10), the Foundation (1) shall consult with those experts engaged in pursuits in the various fields related to the development of marine resources and with agencies (including the United States Office of Education in all matters relating to education) of the Government interested in, or affected by, activities in any such fields, including such interagency mechanisms as may have been or hereafter may be established in this area pursuant to the President's direction, and (2) shall seek advice and counsel from the National Advisory Council on Sea Grant Colleges and Programs, created by section 19 of this Act.

"(b) The Foundation shall exercise the authority derived from section 3(a)(10) by—

"(1) initiating and supporting programs at sea grant colleges and other qualified institutions, organizations, and bodies for the education of participants in the various fields relating to the development of marine resources;

"(2) initiating and supporting necessary research programs in the various fields relating to the development of marine resources, with preference given to research aimed at practices, techniques, and design of equipment applicable to the development of marine resources; and

"(3) encouraging and developing programs consisting of instruction, practical demonstrations, publications, and otherwise, by sea grant colleges and other qualified institutions, organizations, and bodies through marine advisory programs with the object of imparting useful information to persons currently employed or interested in the various fields related to the development of marine resources, the scientific community, and the general public.

"(c) Programs to carry out the purposes of section 3(a)(10) shall be accomplished

through contracts with, or grants to, suitable public or private agencies, public or private institutions of higher education, museums, foundations, industries, laboratories, corporations, organizations, or groups of individuals, which are engaged in, or concerned with, activities in the various fields related to the development of marine resources, for the establishment and operation by them of such programs.

"(d)(1) The total amount of payments in any fiscal year under any grant to or contract with any participant in any program to be carried out by such participant under section 3(a)(10) shall not exceed 66⅔ per centum of the total cost of such program. For purposes of computing the amount of the total cost of any such program furnished by any participant in any fiscal year, the Foundation shall include in such computation an amount equal to the reasonable value of any buildings, facilities, equipment, supplies, or services provided by such participant with respect to such program (but not the cost or value of land or of Federal contributions).

"(2) No portion of any payment by the Foundation to any participant in any program to be carried out under section 3(a)(10) shall be applied to the purchase or rental of any land or the rental, purchase, construction, preservation, or repair of any building, dock, or vessel.

"(3) The total amount of payments in any fiscal year by the Foundation to participants within any State shall not exceed 20 per centum of the total amount appropriated to the Foundation for the purposes of section 3(a)(10) for such fiscal year.

"(e) In allocating funds appropriated in any fiscal year for the purposes of section 3(a)(10), the Foundation shall endeavor to achieve maximum participation by sea grant colleges and other qualified institutions, organizations, and bodies, throughout the United States, consistent with the purposes of this Act.

"(f) In carrying out its functions under section 3(a)(10), the Foundation shall attempt to support programs in such a manner as to supplement and not duplicate or overlap any existing and related Government activities.

"(g) The head of each department, agency, or instrumentality of the Federal Government is authorized, upon request by the Foundation, to make available to the Foundation, from time to time, on a reimbursable basis, such personnel, services, and facilities as may be necessary to assist the Foundation in carrying out its functions under section 3(a)(10) in accordance with this section.

"(h) For the purposes of section 3(a)(10) and this section—

"(1) The term 'development of marine resources' means scientific endeavors relating to the marine environment, including, but not limited to the fields oriented toward the development, conservation, or economic utilization of the physical, chemical, geological, and biological resources of the marine environment; the fields of marine commerce and marine engineering; the fields relating to exploration or research in, the recovery of natural resources from, and the transmission of energy in, the marine environment; and the fields with respect to the study of the economic, legal, medical, or sociological problems arising out of the management, use, development, recovery, and control of the natural resources of the marine environment.

"(2) The term 'marine environment' means the oceans; the Continental Shelf of the United States; the Great Lakes; the seabed and subsoil of the submarine areas adjacent to the coasts of the United States to the depth of two hundred meters, or beyond that limit, to where the depths of the superjacent waters admit of the exploitation of the natural resources of the area; the seabed and subsoil of similar submarine areas adjacent to the coasts of islands which comprise United States territory; and the natural resources thereof.

"(3) The term 'sea grant college' means any suitable public or private institution of higher education supported pursuant to the purposes of this Act which has major programs devoted to increasing our Nation's utilization of the world's marine resources."

"(4) The term 'institution of higher education' shall have the same meaning as it has under section 103(b) of the National Defense Education Act of 1958 (20 U.S.C. 403).

"(5) The term 'sea grant program' means (A) any activities of education or research related to the development of marine resources supported by the Foundation by contracts with or grants to institutions of higher education either initiating or developing existing programs in fields related to the purposes of section 3(a)(10), (B) any activities of education or research related to the development of marine resources supported by the Foundation by contracts with or grants to suitable institutions, organizations, and other bodies, and (C) any programs of advisory services oriented toward imparting information in fields related to the development of marine resources supported by the Foundation by contracts with or grants to suitable institutions, organizations, and other bodies.

"NATIONAL ADVISORY COUNCIL ON SEA GRANT COLLEGES AND PROGRAMS

"SEC. 19. (a) There is hereby established in the executive branch of the Government a National Advisory Council on Sea Grant Colleges and Programs (hereinafter in this section referred to as the 'Council').

"(b) The Council shall be composed of eleven members to be appointed by the President from among private citizens of the United States who are prominent in public life or in the fields of education, oceanology, ocean technology, and other fields related to the development of marine resources. The Chairman of the Council shall be designated by the President from among its members.

"(c) The Council shall—

"(1) advise the Foundation with respect to the policies, procedures, and operations of the Foundation in carrying out its functions under section 3(a)(10);

"(2) provide policy guidance to the Foundation with respect to contracts or grants in support of programs conducted pursuant to section 3(a)(10), and make such recommendations thereon to the Foundation as may be appropriate, and

"(3) submit an annual report on its activities and its recommendations to the President.

The Foundation shall not approve or disapprove any proposed contract or grant referred to in clause (2) unless such contract or grant would be in implementation of a program on which the Council has already given its recommendation, or unless the Council fails to make any recommendation on such program within a reasonable time.

"(d) Members of the Council shall receive compensation at the rate of $75 per diem when engaged in the work of the Council, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

"(e) The Council shall be terminated at the discretion of the President not earlier than June 30, 1969: *Provided*, That the President may establish a suitable advisory council to replace it if he deems it desirable."

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

Mr. MORSE. I am a strong supporter of the bill but I want the RECORD made on it for its legislative history.

I rise to compliment the Senator from Rhode Island on the leadership he has displayed throughout the consideration of the bill.

It is a very important bill, which I think will carry with it a great service to the beneficiaries.

The Senator from Rhode Island and I have stood shoulder to shoulder on many education bills in the Senate. He has given me unfailing support in my capacity as chairman of the Subcommittee on Education.

The bill is a great testimonial to the leadership of the Senator from Rhode Island in the field of education and I thank him for what he has done to bring this bill to a vote in the Senate this afternoon.

Mr. PELL. I thank the Senator from Oregon very much. Let me add that if it had not been for his kindness, as chairman of the Education Subcommittee, in permitting us to set up a special subcommittee, we could not have had hearings and gotten consideration of the bill. In this regard, I am particularly grateful to the senior Senator from Alabama [Mr. HILL] who, as chairman of the Labor and Public Welfare Committee, set up the special subcommittee on sea-grant colleges and programs. Similarly, I must express my thanks and gratitude to the senior Senator from Washington [Mr. MAGNUSON] who, as the acknowledged dean of oceanography in the Senate, permitted me to go ahead with this matter in the first place and who was kind enough to permit this bill to be handled by our special subcommittee.

Mr. MURPHY. Mr. President, as a cosponsor of S. 2439, I would not wish to permit the passage of this measure without saluting and complimenting the work of the distinguished Senator from Rhode Island [Mr. PELL]. Like the seafaring ancestors of his section of the country, he captained the sea college measure through the subcommittee and full committee most admirably. Particularly am I grateful for his willingness to receive and adopt suggestions from the minority.

In bringing S. 2439 before the Senate today, we are underscoring the need for this Nation to get serious about the exploration of the vast resources of our oceans. Hopefully, by making grants to so-called sea-grant colleges, for programs of education, research, and dissemination of the latest findings in the field of oceanology, we will at long last, start to apply the resources and energy of this Nation to tapping the resources of the oceans. It cannot be emphasized too strongly that the primary thrust of this legislation is the practical application of ocean resources for the good of the American people.

In connection with the bill, I have contacted many people in the State of California, where, as Senators know, we have long had a great interest in this field, and I can say that there is strong support in my State for the measure.

Also, I would not want to permit the measure to pass today without some gen-

eral observations regarding the total national effort in the field of oceanology. For sometime I have felt this Nation's efforts in the exploration of the oceans have been inadequate, and moving at a snail's pace. It is to the credit of Congress that we have recognized the importance of oceanology, and the enactment of S. 2439 in addition to S. 944, which was recently enacted, will do much. This administration, however, has treated oceanology as a stepchild. It has failed to provide the leadership and the vision necessary to insure that the United States will be the leader in this endeavor.

That the Communist world is very active in the field of oceanology is well known and documented. Citizens on the Pacific coast are particularly cognizant of their efforts for their fishing vessels have been sighted and followed with deep interest. All Americans are aware of this fact, however, for they have viewed on their television screens the "fishing" activities of the Soviet Union.

There appeared in the March 1966 issue of Navy magazine an article regarding the "fishing activities" of the Soviet trawlers. I ask unanimous consent that the article be printed in full at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MURPHY. Mr. President, the committee in its report, on page 2, expressed its concern with the status of the Nation's ocean-related activity. It stated:

> But there are many ocean-related ventures in which this Nation is performing poorly. Our merchant marine does not compete well with other commercial fleets of the world. Our fishing industry has slipped from second to fifth place in a decade. In fact, last year, fisheries products imports equaled more than one-third of our deficit balance of payments.
>
> If these sagging industries do not catch up, what chance will America have in marine industries of the future, such as: mining of marine minerals, drilling for oil, extracting dissolved substances, aquaculture desalinization, underwater equipment, vehicles, and bases of all kinds? We are not adequately preparing technology for these new or potential industries. Costly gaps can appear overnight. The lesson of Sputnik is a painful reminder of weak long-range planning.

Mr. President, our merchant fleet is truly in a sorry state. It faces a crisis. Presently, we have around 900 vessels, most of which are outdated; and shockingly, they carry only 9 percent of our foreign trade. Seven out of ten are overage. This Nation has learned from experience the importance of the merchant fleet, not only in peacetime, but in time of war as well. In Vietnam, we are once again making use of our air and water power and one would dread to imagine what the situation would be like in southeast Asia, if we did not have control of the sea and the air. In this conflict, our merchant fleet is again keeping the supplies, the lifeblood of our troops and personnel there, moving. Significantly, 98 percent of these supplies and two out of every three persons involved in the conflict have been moved there by U.S. merchant fleet. While at the same time, that the condition of our merchant fleet is treated with indifference, the Russians are involved in a major buildup of their merchant fleet. Russia is building ships at approximately 10 times our construction rate.

Mr. President, in the March issue of the Journal of Commerce, Mr. John N. Thurman, vice president of the Pacific American Steamship Association, ably reviewed the history and necessity of our merchant fleet. I ask unanimous consent that the article be printed in full following my remarks.

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

(See exhibit 2.)

Mr. MURPHY. Mr. President, the Soviet Union's concentrated effort in oceanology has been treated with relative indifference in the United States. What bothers me about this fact is that it would probably take some sputnik-like revolution before the United States is shocked into a realization of the importance and necessity of extending our efforts in what has been called "the neglected frontier." The growing threat of the Soviet submarine fleet alone is reason enough for greater effort on the part of our country. We are all aware of the tremendous capabilities of our Polaris missiles which are launched from mobile submarines having 72 percent of the world's surface as their area of operations. The problems of detecting and eliminating the dangers of a submarine attack stagger the imagination. Soviet submarines have also been sighted off our shores.

During World War II, 4,786 Allied merchant vessels were lost. During the early days of the war such losses averaged around 100 per month. The Germans were able to destroy such numbers during the early days even though at the beginning of the war they had only 47 submarines. Russia today has approximately 500. Need any more be said?

The oceans, as Senators are aware, like the geography of our land, have peaks, valleys, and plateaus. There is a need to know and to map the ocean just as there has always been a need to have maps of our land surfaces. If we are to increase our methods to detect hostile submarines and improve our accuracy of detecting targets, greater research in oceanography is needed.

Despite the importance of the ocean, the facts seem to be that the United States is losing the race for superiority in ocean exploration. The urgency for winning the oceanographic race cannot be overstressed. The stake is survival.

Improvements in our military posture are not the only benefits to be derived from expediting of our oceanographic efforts. We hear much talk about the population explosion of the Nation and the world, and of the inability of man to provide adequate food for such a growing population. By 1980 it has been estimated that the United States will need an additional 3 billion pounds of seafood. The needs of other nations are, of course, greatly higher. In our search for adequate food supplies, the oceans offer great promise, but sadly the present picture of our fishing fleet leaves a lot to be desired. Foreign fisheries, with the benefits of great research are rapidly moving out into all areas including areas off our east and west coasts. Soviet Russia is actively fishing all over the world, and the Japanese also have become very active. The United States in 1956 was second only to Japan as a fishing nation. Five years later, the United States occupied fifth place among nations in the size of its catch. Now, not only are we behind Japan, but we trail Soviet Russia, Red China, and Peru. This obviously is not a desirable position, fitting for the leading nation on the face of the globe. It is not a position that the American people want, nor should they tolerate it.

Some experts are concerned with the world's mineral supply, yet scientists tell us that the ocean contains more minerals than those which have been mined by man in all his past history. Four hundred billion barrels of oil lie outside the continental shelves alone. In addition, sulfur and gas are also present. Going out deeper into the ocean we find manganese, copper, cobalt, nickel, molybdenum, vanadium, zinc, and zirconium deposits.

In addition, scientists are convinced that great research in the oceans would lead us to a clearer understanding and prediction of our weather. Of course, who can say, but this increased knowledge may very well lead mankind to find a solution to the problem of unequal distribution of our water supplies.

Daily in our papers, we read accounts of what hopefully might turn out to be a breakthrough in man's battle against cancer. Strangely enough, biologists and medical doctors find the animal life of the sea unaffected by cancerous growths. Investigation as to why invertebrate and marine animals have not acquired cancer, may lead us to what would be the breakthrough of the century in medical science.

The oceans remain the main channel of the world's commerce. The United States, although a highly industrial nation, depends to a great extent upon the importation of raw materials to maintain its economy and high standard of living.

Bordering the Pacific Ocean, Californians have always appreciated the importance of the ocean, and have been cognizant of the benefits that might be derived from all mankind by an increased effort. Because of the great interest in oceanology in my State and my own personal interest, I am pleased that the Senate is approving this bill today and taking this, another step in furthering our oceanographic effort. As a recent caption in the San Diego Union said, "There's Gold in Them Thar Waves," and I think it is high time this administration began to appreciate that fact. As Senators know, San Diego is in the forefront of our Nation's effort and is uniquely qualified to participate more vigorously if we are, as we should, to speed up our oceanography program.

Speaking of sea power in the period when the English fleet was diminishing, Santayana wrote:

It will be a black day for the human race when scientific blackguards, conspirators, churls and fanatics manage to supplant him.

Fortunately, for the free world, England was supplanted by the United States and U.S. control of the seas has not only been essential for the economic health and defense of our Nation, but it has also helped to preserve freedom around the world. The question that the Congress must long ponder, is whether we are doing enough to make absolutely certain this will always be the case. In addition, Mr. President, I ask unanimous consent that various editorials on this subject, published in California newsnewspapers, be printed in full in the RECORD.

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

(See exhibit 3.)

EXHIBIT 1

[From Navy magazine, March 1966]

THE PROBLEM OF SOVIET TRAWLERS—FREQUENT ENTRY INTO OUR TERRITORIAL WATERS BY THESE ELECTRONICS-LADEN SHIPS CALLS FOR TIT-FOR-TAT RESPONSE BY UNITED STATES, AUTHOR SAYS

(By Raymond Schuessler)

Early on the morning of January 22, 1963, a U.S. tanker radioed the Coast Guard that five Russian trawlers equipped with radar and electronic antenna were proceeding south, 11 miles off the coast of St. Lucie Inlet on the east coast of Florida. Eight hours later the merchantman KEIBE radioed the Coast Guard that a flotilla of six Russian trawlers, with electronic equipment, was heading south in diamond-shaped formation three to four miles off Lake Worth Inlet, 40 miles south of the position reported by the tanker.

Since this incident many Russian vessels have been seen off our Florida coast, often within our territorial waters. As Captain W. K. Thompson, Jr., Chief of Public Information of the U.S. Coast Guard told us, "During the past year and a half there have been about 60 Russian trawler passages and entries into U.S. territorial waters."

FIVE THOUSAND ARE OCEANGOING

What are these Russian ships doing so close to our shores? Are they engaged in harmless fishing expeditions, or are they threatening our security with espionage work and preparing the way for a successful attack in case of war?

The size of Russia's fishing fleet has been variously estimated at from 23,000 to 25,000 steam and diesel propelled vessels of modern design and capabilities. About 20 per cent or about 5,000 of these ships are classified by our Navy Department as oceangoing trawlers and support ships.

The Soviet oceangoing fishing fleet is scattered around the world, equipped both for fishing and for gathering scientific data, including intelligence of military value. Photographs by U.S. Navy planes show that many of the ships have special electronic capabilities not normally required on fishing boats.

Most of the northbound sightings positioned the trawlers several miles offshore, so it appears that the sailing pattern of those trawlers observed was to avoid the Gulf Stream southbound and to ride it on the passages north. The exception occurred on May 27, 1963, when a trawler was reported three miles off Miami Beach, a course not recommended. Within five minutes, a 40-foot Coast Guard boat was dispatched to chase it. Although the U.S. craft with a speed of 18 knots had only to close a gap seven and a half miles, it gave up pursuit without getting close enough to identify it. Admiral I. J. Stephens, of the Miami Coast Guard District, agreed that the trawler had no reason to follow a northern course so close to the shore.

On May 14, 1963, the Navy reported that the destroyer tender USS *Sierra* had sighted what was described as a hydrosurvey ship of the *Okean* trawler class, three miles south of Molasses Reef. The trawler did not answer the *Sierra's* signals. On the same day, a Coast Guard boat reported the sighting of a trawler two and a half miles off Molasses Reef.

MATTER OF CONCERN

On June 8, 1963, the Lake Worth Inlet Light Station reported sighting a Russian trawler two miles off Palm Beach southbound. A Coast Guard boat sent located it about a mile and a half off Delray Beach.

In view of their adaptability to purposes other than fishing, the presence of these Russian trawlers within our waters is a matter of some concern to our government.

Russia maintains a fleet of about 200 to 400 fishing vessels operating off the Grand Banks and Georges Bank in the North Atlantic. More than a dozen of these Russian trawlers make regular trips between the North Atlantic fishing banks and Cuba, according to Rear Admiral A. L. Reed, Acting Deputy Chief of Naval Operations for Fleet Operations and Readiness.

Admiral Reed explained that in July, 1962, several Soviet fishing trawlers began activities in Cuba for the announced purpose of training Cuban fishermen and rehabilitating the Cuban fishing industry. In September, 1962, the Castro regime announced a Soviet-Cuban agreement where the Soviet Union would assist in the construction of a large fishing port in Havana Bay committed to provide services to Soviet trawlers in the North Atlantic for 10 years or longer.

WITHIN OUR THREE-MILE LIMIT

On their trips south these vessels hug the south Florida coastline for a distance of about 150 to 200 miles and at times are well within (one and a half miles) the three-mile limit of our territorial waters. Although this route is recommended by the U.S. Coast and Geodetic Survey publication "U.S. Coast Pilot" to avoid the northerly current of the Gulf Stream, it is, according to the Coast Guard, neither the shortest nor fastest for ships moving from the North Atlantic fishing banks to Cuba.

This raises the possibility, according to the Subcommittee for Special Investigations of the Committee on Armed Services:

"That the trawlers may be using the 'Pilots' recommended course as an excuse for moving in our territorial sea . . . a cover for operations of a military or paramilitary nature."

There is also the possibility of these vessels conducting electronic surveillance of our military defenses and exploring ways of interfering with or controlling the guidance and abortive systems of our missiles and rockets. If routine radio communications in taxis can wreak potential havoc on the launching pads, what can Soviet trawlers with their super-secret electronic gear do? A NASA scientist says: "They would have no trouble throwing a communications monkey wrench into our space flights if they wanted to."

SOUGHT POLARIS "DUMMY"

Nicolai F. Artamonov, former skipper of a Russian destroyer, testified that Soviet trawlers are "loaded with electronic gear for keeping tabs on U.S. Navy units, radar frequencies, shore-based signals and flight patterns of early warning aircraft." The Soviet trawler VEGA nearly collided with a U.S. destroyer off Long Island when the Russian crew tried unsuccessfully to recover a dummy Polaris missile.

Vice Admiral John T. Hayward, USN, has testified:

"The Soviet fishing fleet is mapping New England coastal waters."

Off our East Coast we have a system of underwater sonar buoys, an anti-submarine project—upon which the trawlers could be spying and prying.

We have discovered radioactive devices of Soviet manufacture imbedded on the ocean floor along both the Atlantic and Pacific coasts of North America which were explained by our Navy as "position markers planted by trawlers for use by Soviet subs to 'home in' on such markers before firing on inland targets." We found 43 of our largest cities and over 80 per cent of our industries within range of the markers.

In the fall of 1961 during the North American Air Defense Command's Skyshield II exercises, designed to protect our preparedness against sudden attack, 85 Russian trawlers positioned from Newfoundland to Virginia were interested spectators.

BRITISH IRKED, TOO

Little wonder the activity of the Russian "fishing" fleet has become of increasing concern to western governments. Soviet trawlers have been sighted in such unlikely fishing areas as the waters of Scotland's St. Kilda Island, the British Army's rocket-homing base; and off Holy Loch, Scotland, a U.S. nuclear submarine base. Britain's Sir Pierson Dixon told the U.N. Security Council in 1960:

"We have been subject to the annoyance of seeing Soviet trawlers equipped with electronic equipment in waters where naval exercises or research activities are carried out."

Soviet trawlers are stationed near American military bases in Southeast Asia. When the Guam-based B-52's began strikes against Viet Nam, two Russian trawlers with huge antennas set up posts four miles from the Guam air base. Since we did not protest, we soon found the Russian trawlers trailing the Seventh Fleet off Formosa. Now spy-trawlers are off Viet Nam where they can give immediate information of American air attacks and, at times, amphibious landings. During one U.S. Marine attack, according to a Pulitzer Prize correspondent, the Soviet trawlers were able to report to the Viet Cong when, what and how many U.S. troops were involved. Both the Navy and the Coast Guard admitted that the ships could be landing or picking up spies or saboteurs or smuggling military items and that this could be done with little chance of detection in the landing or picking up operations.

IT WOULD BE EASY

We interviewed a fishing charter boat captain in Fort Lauderdale, Captain E. B. Kitchell, who stated that he or any other private boat owner could leave the Florida coast without clearing for a foreign port, pick up passengers in the Bahamas and, again without clearing, bring them into the United States along the Florida coast without anyone knowing about it. The same pattern, he said, applied to trawlers; that is, he could meet a trawler as far as 20 miles out, put an agent on the trawler and take one on his ship. This goes for messages or any equipment he may want to bring in.

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EXHIBIT 2

[From the Journal of Commerce, Mar. 21, 1966]

FOR TRADE AND DEFENSE: SHIP NEEDS OF NATION PROVEN IN HISTORY

(By John N. Thurman, vice president and Washington counsel, Pacific American Steamship Association)

Ever since the founding of our great nation, the importance of a strong American

Merchant Marine has been forcibly demonstrated many times.

The first colonists and explorers came in America in ships and ships were vital for trade and communication to expand and develop the nation. In times of war, merchant vessels served as our first navy, and later as a most important supplement to the regular navy.

While the nation was growing we became world leaders in maritime innovations such as the speedy Clipper ships that carried American products to the four corners of the world. The changeover from sail to steam, as a result of American inventiveness, should have made us the leading maritime power in the world, but this was not the case. Our merchant fleets were neglected in favor of internal expansion and transportation modes to the point that at the turn of the century, American-flag ships were carrying only one-tenth of the nation's foreign trade.

As in the preceding centuries, later years have brought many occasions when the very security of our nation has been dependent to a large measure on the availability of a strong and active American-flag merchant marine.

At the outbreak of World War I we had allowed our merchant marine to depreciate to such a low state that nearly 90 per cent of the U.S. foreign trade was being lifted on foreign-flag vessels. The majority of these vessels were immediately withdrawn from our service.

Export goods piled up on our docks for lack of ships to carry them abroad and the public had to do without many even essential imports. As is always the case when left to the mercy of a short supply of vessel space, freight rates soared.

FOREIGN SHIPS NEEDED

When the United States became an active participant in World War I, we had to rely almost totally on our allies to transport our army and to carry its food and weapons to Europe. A huge and costly shipbuilding program was undertaken, but very few ships came off the ways in time to be of any use before the war ended. We were then left with hundreds of ships for the most part completely unsuited to peacetime trades.

At the approach of World War II, the situation was quite similar. Our merchant fleet had deteriorated in size and quality and the majority of our exports and imports were being carried in foreign-flag vessels. But that time due to the enactment of the Merchant Marine Act, 1936, we were able to build ships fast enough to meet the tremendous demands for shipping capacity of a worldwide war.

During this period of crisis, the survival of not only this nation and our allies but of the entire free world depended upon the capacity of the American Merchant Marine to move troops and supplies for the armies, cargoes essential to the life of civilian populations, and the raw materials needed for producing weapons that were all necessary to the successful prosecution of the war.

After the war ended these same American-flag ships moved the supplies needed for rehabilitation of the many devastated countries throughout the world.

Under the Merchant Ship Sales Act of 1946, many of these war-built vessels were sold to U.S. steamship companies and to foreign carriers to replace ships lost or damaged during the war. Other vessels were placed in reserve fleets at various points throughout the United States for use in future emergencies.

Emergencies requiring immediate use of American-flag vessels were not long in coming. When the war broke out in Korea in 1950, several hundred of the reserve ships were sent back into service and operated by the American steamship companies to move troops, supplies, and equipment, and also to carry foreign-aid cargoes essential to the preservation of the freedom of famine stricken countries throughout the world.

When the Suez Canal was closed in 1956, reserve fleet tankers were withdrawn to supplement existing carriers to provide the extra capacity needed for hauling petroleum the long way around Africa. Again when war threatened in Lebanon, the American Merchant Marine provided support for the military forces.

During the recent Cuban crisis a large segment of our U.S.-flag merchant fleet was placed on standby alert. It should also be noted that with all of the pronouncements concerning airlift capability when it came to evacuating the military dependents from Guantanamo, airlift was far from sufficient and a MSTS transport vessel came to the rescue.

Today we have Viet Nam. We are all familiar with the facts that over 98 percent of the supplies and two out of every three persons engaged in the conflict have moved to the area by water on U.S.-flag ships.

Again as in past crises our merchant marine limited in the short periods of peace through budget denials is being supplemented from the reserve fleet. Over 100 reserve ships have been demothballed to date. These World War II-built vessels are of limited value and cannot be considered in future projections on U.S.-flag lift capabilities.

Over the years we have seen the practical lessons learned and forgotten in the value of a strong U.S.-flag merchant marine to the national defense.

Less dramatic but of equal importance is the contribution which the U.S. merchant fleet makes to the economic welfare of the country, by assuring uninterrupted movement of the agricultural, manufactured, and raw materials in our foreign commerce which is necessary to the continued and ever-increasing prosperity and well-being of the country.

We depend upon a large variety of imported foodstuffs, raw materials, and other products to maintain our high standard of living, and to supply necessary elements of many of the manufactured exports which we send to other nations.

If there was no existing U.S.-flag merchant marine, industry, involving imports and exports would find itself in a precarious position regarding freight rates and our competitive position for world markets would be in constant danger. Additionally, the current serious balance of payments deficit highlights the need for use of U.S.-flag vessels, which earn or conserve about $1 billion annually to the plus side of the balance.

It has been amply demonstrated time and again that we cannot depend upon other countries to supply at all times the ships needed for the defense and trade of the United States. We must, therefore, maintain enough shipbuilding capacity, experienced steamship companies, and skilled workmen of our own to provide a United States-flag Merchant Marine to serve our country in both war and peace.

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EXHIBIT 3

[From the San Diego (Calif.) Union, Mar. 13, 1966]

UNTAPPED FRONTIER: OCEAN RESEARCH IS INVESTMENT

The vast continental shelf under the ocean on both sides of the United States is an exciting and virtually untapped frontier that offers a vast economic potential for the future.

In general terms studies of the shelf and use of its resources are in the period of time the dry land area of the nation was at the time of our earlier pioneers.

The Committee on Oceanography of the National Academy of Sciences has estimated an investment of $165 million a year in oceanography research annually could eventually return as much as $3 billion a year in resources. The returns could begin as soon as 10 years.

There also is great possible economic significance on the deep sea floor. Resources include manganese, copper, cobalt, nickel, molybdenum, vanadium, zinc and zirconium deposits. Their value is inestimable but it is known to be of great magnitude.

To exploit this resource scientists will need a better knowledge of their distribution, their composition as a part of the ocean floor, the regions in which they occur and how best to develop harvesting techniques.

The continental shelves themselves are rich in oil, gas and sulphur, part of which is being extracted. In addition there are other valuable mineral concentrations that have received little attention, including gold and magnetite.

Economic value of the ocean is not confined to sub-surface mineral resources alone. Additional research in ecology and biology of organisms supporting fish life could add greatly to the commercial catches and increase this important supply of food.

Additional studies of the ocean also could assist shipping and weather reporting. In the outer limits of thinking, scientists do not discount the possibility of men actually living permanently below the ocean surface as they do on land. Experiments, such as the SeaLab in La Jolla last year, have proved men can survive for considerable periods in ocean depths.

San Diego is in a good positon to capitalize on the growing emphasis on oceanography and ocean engineering if community leaders pursue programs vigorously.

We are situated ideally near a warm area of the Pacific, our climate will support year-round work and the stature of existing scientific organizations which already have done superb research is recognized throughout the world.

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[From the San Francisco (Calif.) Examiner, Mar. 1, 1966]

HOUSE PROBES SHORTAGE: CRISIS IN U.S. SHIPPING

(By E. F. Tompkins)

The war in Vietnam is having a galvanic effect on Congress with respect to our sea power.

It is warning the lawmakers that new merchant marine legislation may be peremptorily required, not only to serve our overseas trade in years of peace, but to assure a ready and adequate defense in another war.

In recognition of a crippling ship shortage disclosed by events in Southeast Asia, the Merchant Marine and Fisheries Committee of the House is quietly conducting an intensive investigation of our sea-borne capabilities.

The Chairman, Rep. EDWARD A. GARMATZ, Democrat, of Maryland, has requested all 535 congressmen to appear at public hearings and "present their views."

In his invitation, GARMATZ said:

"Our national shipping posture is deficient and losing ground."

The chairman's epitome of our maritime situation is not an overstatement.

During several administrations, the Merchant Marine Act of 1936 has remained in force; competent men have served on its executive bureaus, and Congress has appropriated funds for construction and operating subsidies.

The financial effort has, however, been relatively niggardly.

At the same time, the Nation since 1945 has had a large number of World War II carriers moored idly along its coasts and superficially deemed ample for any emergency.

But ocean-going ships become antiquated or obsolete in 20 years, and most of the

"mothball fleet" has passed the age limit. As a third factor, too little heed has been given to the shipyard activities of competing countries.

Lloyd's Registry of Shipbuilding, the global authority on the subject, recently issued its report for the last quarter of 1965.

The report showed that in December the United States, the foremost import-export market in the world, was outranked by 11 countries in merchant ship construction.

In December, the Soviet Union was completing in its own yards, as one year's output, 94 freighters, 42 oil tankers and an unspecified number of other "bulk carriers."

In addition, several hundred cargo and passenger ships will be added to the Soviet armadas by satellite countries in the next five years.

Japan, the leading shipbuilder, was turning out 199 vessels; Britain, 184; West Germany, 176, and Sweden, 44.

In contrast, the United States had under construction on Jan. 1 only 44 ships, including replacements, and the administrative budget for fiscal 1967 contains subsidy funds for only 13 more.

Even worse for American prospects, proposals have been made in Washington officialdom that the Merchant Marine Act of 1936 be debilitated in two ways:

By diverting from American to foreign yards the construction of vessels for the American Merchant Marine, and

By rescinding the "cargo-preference" clauses requiring that 50 percent of our maritime trade be reserved to American carriers.

Since 1965, the Navy's Military Sea Transportation Service, previously operating a scanty 40 vessels, has had to charter approximately 100 privately-owned carriers, besides "reactivation" entailing an expenditure of hundreds of thousands of dollars for "reconditioning."

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[From the Los Angeles (Calif.) Times, Oct. 11, 1965]

OUR AILING MERCHANT MARINE

Before the year is out a special Maritime Advisory Committee, appointed by the President, is expected to report its proposals for dealing with the manifold and long-standing problems of the nation's merchant marine.

Because of the growing urgency of the situation in this vital economic and military area, Congress may be asked to act on these recommendations as early as next January. Under consideration will be major changes in the 1936 Merchant Marine Act, the basic law for government support of the U.S. Flag fleet.

Despite annual subsidies of about $400 million, the American merchant marine is in an unhealthy condition. In recent years the United States has fallen to fifth place among the world's merchant fleets, and among shipbuilding nations this country now ranks 11th. Japan, for example, currently has 10 times as much ship tonnage under construction as the United States.

American merchant seamen, subsidized by the government to the tune of $200 million a year, are the highest paid in the world, earning at least three times as much as the highest paid foreign seamen. This fact, of course, has helped contribute to the decline of the industry. Foreign flag ships, with their cheaper labor costs, now carry about 91% of U.S. foreign commerce.

The present system of subsidizing the maritime industry obviously hasn't worked. For example, about $125 million a year is being spent on construction differential subsidies, under a plan that pays up to 55% of the cost for new U.S. vessels. But this hasn't achieved a strong, modern fleet. Foreign shipyards are able to build comparable vessels for about 45% of what ships cost in U.S. yards.

The final recommendations of the Maritime Advisory Committee, when they come, are expected to reflect the goals recently set down by Commerce Secretary John Connor. These include increasing the share of the country's foreign trade carried by U.S. Flag ships; building more ships to transport dry and liquid bulk cargoes; and greater labor-management co-operation.

This last aim may prove the most difficult to realize. Since 1934, there have been 25 major maritime strikes, resulting in losses to the industry of billions of dollars. In the past five years alone, 7 million man days have been lost because of strikes.

Foreign competition, domestic labor-management disputes, and high construction, maintenance and crew costs have all played a part in the deterioration of the U.S. merchant fleet. The effects on both the private economy and the nation's balance of payments problem—because of increased American use of foreign shipping—are evident. Less evident, perhaps, is the effect on the U.S. military capability.

The U.S. merchant fleet has sometimes been called the nation's "fourth arm of defense." In times of emergency U.S. Flag ships are required to make themselves available to the Defense Department, as transport vessels. But the number of ships in the active merchant fleet has been steadily shrinking, and many that remain are overage.

How quickly and efficiently these could be put to use if needed is a matter of considerable concern to Defense Department planners.

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[From the San Diego (Calif.) Union, Apr. 19, 1965]

OUR MERCHANT SHIPS TOO FEW—STRONG MARITIME FLEET NEEDED

If American people ponder at all about sea power, they probably think about our Navy and conclude that American strength is the finest in the world.

Unfortunately, as naval authorities remind us, naval and weapons power in which the United States excels is not synonymous with "sea power."

Rear Adm. Stephen B. Luce, an authority, summed it up with: "Sea power, in its military sense, is the offspring not the parent of commerce."

In the final analysis, sea power means merchant ships to carry our goods overseas and bring natural resources back. Warships and weapons have a vital role in protecting this movement, but they are not the end product in logistics.

The United States has become an industrial island in the world, absorbing more than half of the world's output of natural resources in its mills and factories. Products of the industrial greatness flow back across the world.

Yet, strangely, our maritime service has dwindled to the point where only 9 percent of our exports are shipped in American bottoms. In 1947, it was 70 per cent.

The commercial aspects of our aging merchant marine fleet is one area for serious concern, our naval posture is another. Together they spell sea power for national defense.

In 1950, the U.S. Merchant Marine adequately supported a war in Korea across 6,000 miles of ocean. If the present conflict in Viet Nam escalated into a comparable war, the United States would not be able to supply its troops without the aid of foreign bottoms.

If this happened, our maritime allies might put conditions on use of their ships that would seriously handicap our freedom of action. This is not speculation—our allies have in the past vetoed an economic and naval blockade of Red China.

No war can be fought effectively if another nation has any say in the military decisions that must be made by the United States alone on the basis of its policy and judgment.

It is significant also that Russia is forging ahead rapidly with its nonmilitary ocean fleet. The Russian cargo ship procurement is more than twice that of the United States. Tanker procurement is five times as great. She has an advanced oceanographic service and the fishing fleet, the nucleus of maritime expansion, is modern and adapted to spying.

Clearly the national interest of the United States depends on a new attitude toward its maritime strength, a modernization of thinking and top-level leadership to bring the civilian fleet from its moribund state.

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[From the San Diego (Calif.) Union, Sept. 12, 1965]

SHIP SHORTAGE DELAYS CARGOES FOR WAR ZONE

A recent incident at Long Beach should puncture remaining optimism that in times of emergency the United States can depend upon the ships of our Allies to supply our overseas troops.

For more than two weeks about 10,000 tons of needed construction equipment, material and general supplies waited on the Long Beach dock while U.S. officials frantically looked for a ship to carry them to South Viet Nam.

Mexican officials, explaining their laws forbid ships flying their flag from entering a war zone, ordered the cargo unloaded when the original contracting ship was nearly ready to sail.

On the next attempt, the crew of a Greek freighter refused a $10,000 bonus to carry the U.S. Army supplies to South Viet Nam. The Greeks have no compunctions about sailing into war zones. In the last 18 months nearly 30 Greek ships have been tallied in Communist North Vietnamese harbors, including nine in the first half of this year.

After a delay of more than two weeks, U.S. officials finally found an American flag carrier to ship the essential material to South Viet Nam.

The incident illuminates the increasingly critical problem caused by the declining and once proud U.S. Merchant Marine. Unless the trend is reversed, our economic well-being as well as our security and defense will be affected increasingly.

Since World War II, the American Merchant Marine has slipped from first- to fifth-ranking status in the world. Britain, Japan, Liberia, and even Norway rank ahead of us.

This year Lloyd's Register of Shipping reported that the United States is constructing only 62 of the 1,700 ships on the slips today. This does not include the ships under construction in Red China and Russia, which are increasing emphasis on their maritime fleets.

From the economic standpoint, only about 9 per cent of the estimated 315 million tons of import-export cargo that U.S. ports will handle this year will be carried in American bottoms. If the trend continues, the total will slip to 3 per cent by 1985.

As Rep. WILLIAM S. MAILLIARD of California has noted: "If we do not need a merchant marine fleet (and he firmly believes we do) we're wasting $350 million a year in subsidies. If we do need one, we should keep and increase what we have to the point where the United States once again is a leading maritime power."

Another enlightened position has been taken by Capt. Lloyd W. Shelton, president of the AFL–CIO union for masters, mates and pilots. Noting the Long Beach incident, Capt. Shelton wrote the President that "the only reliable ships are American ships with American seamen," in times of emergency.

He advocates creation of a reserve fleet, partly manned, that can be pressed into

duty for emergency shipment of military supplies. The idea might have merit, but it does not touch on the need for a healthy merchant marine at all times.

The present declining state of the U.S. Merchant Marine is a sad commentary for a nation that can afford, and rightly so, whatever it costs to keep superiority in the air and space.

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[From the San Francisco (Calif.) Examiner, Feb. 28, 1966]

GRAVE THREAT TO MERCHANT MARINE

The American merchant marine, an indispensable element of the national defense, once again has been allowed to decline to a dangerously low level. Worse, large sections of it are threatened with oblivion.

At the end of World War II, a scant 20 years ago, the United States had the world's greatest merchant fleet. Today American bottoms are so few they transport only 9 percent of the nation's foreign commerce.

At the end of World War II our country had the world's mightiest shipbuilding industry. Last year we fell to 12th place. Soviet Russia is building 10 times as many merchant vessels as this country.

As if this decline were not bad enough, a governmental task force has recommended among other things that:

All U.S. passenger ship services be phased out by withdrawal of subsidies.

The total merchant fleet be reduced, with a corresponding reduction in seamen's jobs from 47,000 to 26,000 over the next 20 years.

Subsidized ship construction in American yards be cut further, and American shipping lines be encouraged to contract for construction of future vessels in foreign yards.

These task force recommendations appear to be based on assumptions that the role of surface vessels in military lifts is declining, that this country can count on the emergency use of allied merchant fleets and American-owned ships flying under flags of convenience, and that subsidies in this field no longer bring an adequate return.

But these are questionable assumptions. In the Vietnam conflict 95 percent of all supplies and materiel are moving by ship. Too, Vietnam has shown that our armed forces cannot always count on the use of allied vessels and ships under flags of convenience with foreign crews.

And the subsidy is a sound investment so long as it provides this nation with a merchant marine adequate to the fullest needs of our armed forces.

Recently the public members of the President's Maritime Advisory Committee directly challenged the task force recommendations. These public members called for a strong buildup in all categories of American vessels, and construction of all the vessels in American yards. That is good advice. We urge Congress to follow it.

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[From the San Diego (Calif.) Union, Mar. 6, 1966]

MARITIME BUILDUP OVERDUE: "THE ENEMY IS COMING BY SEA"

Former Secretary of the Navy John B. Connally's warning of five years ago that the "enemy is coming by sea" unfortunately gains increasing credence with time.

Despite the Administration's promise of two years ago that it would "recommend a new policy for our merchant marine," this has not been done.

Meanwhile, the United States has plunged to 12th place among shipbuilding nations of the world. It is carrying only 9 per cent of its world commerce in its own ships, the same percentage as in 1910.

The Soviet Union's merchant fleet of 465 ships ranked eighth in the world in 1951. By 1964, its ranking climbed to fourth with 1,149 ships.

During this 13-year period, the U.S. merchant fleet, second in 1951 with 1,264 ships, dropped to sixth with 968 vessels in 1964.

In Mr. Connally's words, it is obvious the Communist expansionists have come to the "turning point" he mentioned. They have found "there is no easy way to expand their influence without use of the seas."

The Soviet-bloc ships, seen off San Diego's shore, look peaceful and harmless. They are, however, instruments of decisive military, political and economic importance, as we have found in Cuba first and now in Viet Nam.

At a time when our merchant fleet is declining in strength, with 77 per cent of it constructed 20 years ago, Russia churns along at flank speed developing sea transport to pursue its goal of world domination.

What can this country do? It can and must enter the competition.

A beginning is right here in San Diego through the concept of a Maritime Pacific complex capable of serving more adequately the maritime needs of this, a maritime nation.

Port facilities, cargo handling, competitive shipping lines, labor and management cooperation, shipbuilding innovations, new governmental subsidy and ship renewal plans are all vital factors to be considered.

Free Enterprise and government must join together to overcome this challenge from the seas. The problems are great, not insurmountable. Russia is not hindered by labor-management disputes or a lethargic administration. Its go-ahead tactics are dictated.

The enemy is, indeed, "coming by sea." It's long past time to meet the competition.

Mr. FONG. Mr. President I support S. 2439, the sea-grant college bill, of which I am a cosponsor.

The bill authorizes the establishment and operation of sea-grant colleges and programs through education, training, and research in the marine sciences. In hearings before the appropriate committees of the Senate and the House of Representatives, I strongly endorsed the concept of the sea-grant college. It is a much-needed measure which should be enacted as soon as possible.

Our country suffers from a distressing lag in the development and exploitation of our marine resources. S. 2439 would create the means by which we can close this gap by putting to practical use the basic research in marine science. This lag can, and should, be overcome without further delay.

Qualified colleges and other institutions would be assisted under the sea-grant college concept, to expand and upgrade programs of education, training, and applied research in the oceanic field. The practical application of new knowledge obtained through such programs will benefit marine industries such as fisheries and shipping, and help to exploit the untapped resources in the seas around us.

The proposed legislation would do for the oceanic field what has been done so successfully in agriculture under the land-grant college system begun in the last century. It would promote aquaculture in the same manner in which the highly successful agricultural extension service was developed in this country.

Hawaii has a special interest in the sea grant college proposal. As an island community completely surrounded by the ocean and enjoying ideal natural advantages for oceanic work, Hawaii has already embarked on a vigorous program of oceanic activities. The University of Hawaii, which strongly supports these activities, has attracted highly qualified personnel who can contribute substantially to aquacultural extension work.

I strongly urge the approval of the measure.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an editorial, entitled "Land Grants to Sea," which was published in the Honolulu Advertiser of September 9, 1966.

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

LAND GRANTS TO SEA

The development of land-grant colleges is one of the great success stories in American education.

Senator Justin Morrill of Vermont in the Civil War era sponsored the bill which gave such public institutions countless acres of underdeveloped land to be held for later sale to finance growth.

Some of our great state universities got started this way, as did the University of Hawaii, which still has title to valuable land.

Now there is a bill in Congress to create "Sea Grant Colleges." The University of Hawaii would be a natural under this bill which has passed the Senate and now awaits action in the House.

The bill would not provide universities land (or sea), but it would provide funds for research and make the designated institutions a focal point for such Federal efforts.

As the land-grant college act came to provide tremendous educational and research resources for development of our states, especially those in the West, so the sea-grant bill promises the nation faster access to the riches of the ocean.

This is not idle talk. There is adequate documentation of the sea's great potential in providing metals, oil, chemicals, and food that will be increasingly needed by a hungry world. The challenge is finding ways to properly locate and harvest these riches.

Hawaii and other states receiving sea-grant college funds under the proposal would be expected to contribute at least a third of the cost of the research programs, a provision that seems fair in view of the special benefits we would receive.

Not only would it enable the university to expand its research and training potential in sea sciences, it would give Hawaii a core of research and development personnel in oceanographic work. This, in turn, could lead to other research and business activity.

Although much of the work would obviously employ scientists and high-level technicians, sea-grant research could involve such things as using our new Community College system as an experimental training institution for applied technology in oceanography. It could feature new methods of fishing or new skills such as sea-mining.

The sea-grant college idea, in short, opens the door for expanded and intensified effort in oceanography for a nation which has too long neglected its "inner space" frontier.

Nobel prize-winning author John Steinbeck, writing in the September issue of Popular Science Monthly, poses this challenge of priorities:

"I do not think that $21 billion is too high a price to pay for a round-trip ticket to the moon. But it does seem unrealistic that we indulge in these passionate pyrotechnics when, under the seas, three-fifths of our own world is unknown, undiscovered and unclaimed . . .

"There is never much argument about appropriations for space shots, but a recent request for money to explore, map and evaluate the hidden places of our mother earth

brought howls of protest from Congressional leaders . . ."

The sea-grant college program would not be a major one to start with. The first-year appropriation would be $5 million, less than the cost of two new fighter planes. Chances are the Viet Nam war would delay expansion.

But this is an area where the United States must move, and our efforts will be self-rewarding over the years.

Mr. KENNEDY of Massachusetts. Mr. President, as a cosponsor of this legislation I am pleased to speak in support of S. 2439, a bill to establish national sea-grant colleges. I especially want to commend the distinguished junior Senator from Rhode Island for the outstanding work he has done in bringing this proposal before the Congress and for his deep understanding of the valuable contribution this program could make to our knowledge and use of marine resources.

Until just recently our approach to the sea and its resources had been primarily from the surface. We perfected the ships and facilities which operate from the surface to exploit the marine resources lying slightly below the surface. But there are, in addition, tremendous untapped resources along the ocean floor, in the ocean floor, and throughout the expanse of the ocean body to be studied, developed, and exploited for the benefit of the entire Nation, and, indeed, for all mankind.

The incredible quantities of untapped human food resources within the sea stagger the imagination and illustrate the challenge the sea presents to man's technical and scientific ability. Our oceans produce about 400 million tons of animal protein each year—only about 10 million tons of which are being harvested annually. I find it frustrating to contemplate these enormous unutilized food resources lying so close at hand when at the same time more than half of the world's inhabitants are chronically hungry or constantly undernourished.

Not only are we not tapping this unused potential, we are not even maintaining our relative position in the world. For the past 30 years the U.S. fish catch has remained static while fish use has increased. In 1964, we imported fish and fish products valuing nearly $600 million. In the last decade alone the United States has dropped from second to fifth place in the scale of world fish catch, and that part of our consumption which we import has increased by 25 percent.

In part, this decline can be attributed to the enormous fleet of foreign fishing vessels, principally Japanese and Russian, which are operating off our shores taking fish resources which should be ours. But the blame must be placed as well upon our failure as a nation to take the aggressive and imaginative action necessary to make our fisheries competitive with other nations.

But the statistics of food needs, fish catch, and competitive position do not begin to tell the story of the present challenge and opportunity offered by the sea and its resources. The ocean remains our planet's last frontier. We have only just begun to study its physical and biological laws, to seek out its resources and to harness its power for our own needs. It is estimated that man obtains only 1 percent of his food from the sea. While America spends billions annually to probe the limitless and intangible expanse of space, we let three-quarters of our globe lie fallow and practically unproductive. Yet we know from recent discoveries that vast mineral resources lie below the waters—the Continental Shelf is rich in petroleum and minerals; gold and phosphorite are already being mined off our western coasts; and who can deny that the mountains and valleys along the ocean floor contain the same riches as the mountains and valleys which form our land continent? And now our scientific and technical knowledge has advanced to a degree where we can begin to mine them.

Many of us here in the Senate have worked hard on various pieces of legislation relating to the sea—legislation to develop and process fish protein concentrate, to improve the facilities and equipment of our merchant and fishing fleets, and to guarantee the health of our fishing industry against the encroaching forces of foreign competition. But all of these measures, while necessary and important, do not provide the basic comprehensive approach which we need.

The 1958 Geneva Convention on the Law of the Sea in effect gives to those countries that first explore the depths of the sea the right to control them. If we are to become the master of the oceans we must develop and implement bold techniques for exploiting ocean resources.

We need an intensive study and overhaul of our entire fishing and marine resource industries. We need a renaissance in oceanography, aquaculture and marine mining which will move us out of the dark ages of old fashioned techniques, make our marine fleets again the most powerful in the world and establish the United States as the leader in marine and aqua-technology.

Most important of all, however, we need to call dramatic attention to the existence of this last great frontier. Just as sputnik caused a revolution in space technology by concentrating national interest on the conquest of outer space, the same sort of national interest must be stimulated in the conquest of ocean space.

To put it simply, there are just not enough Americans at the present time who know enough about or who are interested enough in the potential of the sea to make possible the commitment of men and resources necessary to conquer the sea. We need a national program, a program which will stimulate our young people while in college to pursue careers in ocean science and technology, which will support basic research, and which will translate the results of this basic research into practical programs attractive to private industry.

Taken together with the act recently passed creating a National Council to give policy guidance in the development of our marine resources, the establishment of a national sea grant college program can provide the foundation for this concerted national effort.

There are already many institutions within the United States which are deeply involved in the study of marine science. Sea-grant colleges would be developed through these institutions, by providing Federal funds to support and augment programs which are presently in existence and by creating new programs. Through the facilities of a university, science and technology will be applied to such areas as underwater prospecting, pollution control, shipping and navigation, mining, food resources and development, forecasting of weather and climate, marine pharmacology and medicine, and recreation.

These sea-grant colleges hopefully will do for the sea what land-grant colleges did for the land. The land-grant college movement caused an agricultural revolution in America. A small investment in agricultural research brought forth great returns in terms of increased production per acre, the release of workers from agriculture, higher output per man-hour, new methods of farming, marketing, and conservation and higher standards of living for the farmer and his family. These colleges are a continuing source of research and experimentation, keeping America's farmers aware of new techniques and knowledge in agricultural sciences and keeping our farmlands among the highest producers in the world.

Similarly, a sea-grant college would have a grant of seashore or lakeshore for experimental plots; it would receive Federal assistance for educational programs in the related fields of oceanography, aquaculture, and marine mining; for research facilities in the practical application of scientific research and techniques and for the creation of extension services to disseminate this information to all fishermen and oceanographers.

We in Massachusetts are particularly well qualified to expand our already considerable efforts in these areas, and to benefit from this program. The Commonwealth of Massachusetts has long been involved in the life of the sea. For centuries, fishing fleets and whaling schooners have sailed from the ports of Gloucester and Rockport, the South Shore and the islands of Nantucket and Martha's Vineyard. Today these same ports are the home base for fleets which farm the Grand Banks and Atlantic waters. And these Massachusetts fleets account for a large portion—10 percent—of the total U.S. commercial fish catch, surpassed only by Alaska and California. However, today, instead of having the 20th century equivalent of the powerful, formidable fleets of the 1800's, our fishermen are working with outdated equipment and inefficient facilities.

We have the resources in Massachusetts to change this. Our State is one of the oldest and most respected centers of marine research in the country. In addition to research facilities within academic institutions such as Boston College, Boston University, MIT, Northeastern, and the University of Massa-

chusetts, Massachusetts is proud of its special marine institutes such as the New England Aquarium, the marine biological laboratories and the Woods Hole Oceanographic Institute.

A national sea-grant college program would give these Massachusetts universities and institutions the additional financial assistance, direction, and encouragement they need to revitalize the fishing and marine industries of New England. Moreover, such a program would give much-needed support to younger, developing institutions.

For example the Southeastern Massachusetts Technical Institute, a new university in southeastern Massachusetts, has just begun a program of research into aquatic sciences and is working closely with industry and civic leaders in the New Bedford fishing community. Southeastern Massachusetts Technical Institute needs the type of assistance envisioned in S. 2439 to strengthen its curriculum and to provide necessary equipment and salaries. And the establishment of a sea-grant college within Southeastern Massachusetts Technical Institute or other institutions in southeastern Massachusetts should bring to the New Bedford area new marine and aquatic industries anxious to take advantage of the research facilities and technological advances which will flow from this program. I believe developing private industry interest is an important aspect of the sea-grant college program. For just as industry has grown around the excellent research and experimental facilities of Boston, industry should grow in the areas around sea-grant colleges wherever they are established.

Leaders within our Commonwealth have already started devising plans to expand research and education in the marine sciences for the benefit of the public. The various Massachusetts universities and institutes involved in aquatic culture have formed the Massachusetts Association for Marine Sciences, where representatives meet regularly to exchange ideas and plan cooperative research. A subcommittee on oceanography has been created in the Governor's Science Advisory Committee and a New England Chapter of the Marine Technology Society has been formed. These efforts to marshall the combined resources of our research and educational community reflect the great interest in the ocean within our State, and testify to Massachusetts capacity to make a positive contribution to the success of these programs—and to our ultimate objective, the conquest of the sea.

Mr. President, this legislation can have a tremendous impact on development of our marine resources. I urge its enactment.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

The title was amended, so as to read: "A bill to amend the National Science Foundation Act of 1950, as amended, so as to authorize the establishment and operation of sea grant colleges and programs by initiating and supporting programs of education and research in the various fields relating to the development of marine resources, and for other purposes."

Mr. PELL. Mr. President I ask unanimous consent that consideration of S. 2439 be indefinitely postponed.

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

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## CIVIL RIGHTS ACT OF 1966

The Senate resumed the consideration of the motion of the Senator from Michigan [Mr. HART] to proceed to the consideration of the bill (H.R. 14765) to assure nondiscrimination in Federal and State jury selection and service, to facilitate the desegregation of public education and other public facilities, to provide judicial relief against discriminatory housing practices, to prescribe penalties for certain acts of violence or intimidation, and for other purposes.

Mr. ERVIN. Mr. President, if I were a proponent of this civil rights bill, I would advocate cloture, because I would not want anybody to find out what is in it.

A motion is pending before the Senate. We have had virtually no debate upon the motion thus far; however, the proposal is made that we cut off a debate that has not started.

When I was a schoolboy, I read the words of a great American—Patrick Henry. He said:

> Is life so dear or peace so sweet as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty, or give me death!

These words of Patrick Henry were the cornerstone upon which America was built.

The men who followed Washington through the Revolution, and whose bare feet bled in the snow at Valley Forge, fought for liberty. They never thought that the day would come, in the history of the Nation they fought to make free, when its highest legislative body would be asked by a President of the United States to pass a bill which would rob all Americans, of all races, of all generations, of the right—a human right—upon which other rights in the final analysis, necessarily must rest: the right of private property. That is the effect of title IV.

My good friend, the senior Senator from Michigan, inserted in the RECORD today the lead editorial from the New York Times.

I think we ought to postpone cloture until correspondents of the New York Times can send some dispatches about the contents of this bill to the writer of this editorial, in order that he might know what is in the bill.

The editorial attempts to appeal to Senators who live above the Mason-Dixon line by making this statement:

> The pending bill, like its four predecessor measures dating back to 1957, is essentially a bill for the relief of the southern Negro.

There is one fundamental distinction between this bill and every other bill bearing the name of civil rights which has been proposed since I became a Member of the Senate. This is the first civil rights bill which is aimed at a section of the country other than the South. It is a bill which proposes that other than southern oxen be gored.

This bill is directed toward the North, the East, the West, and the central portion of the United States as well as against the South, the assertion of the editor of the New York Times to the contrary notwithstanding. Evidently, the editor of the New York Times has never heard of Harlem or of Rochester or of Brooklyn or of Cleveland or of Chicago or of Waukegan or of Milwaukee or of Dayton.

The editor of the New York Times said that this is a bill to bring equality. I am glad there is something in the editorial with which I can agree. I agree that this is a bill to bring equality. The way this bill would bring equality to Americans would be to rob all Americans of their rights, and to put them in a position of mere "subjects," subject to the whims and caprices of Federal bureaucrats.

It is unfortunate that Patrick Henry does not live in this day and make his speech now. This is so because today there are men in high positions who would not state, as did Patrick Henry, "Give me liberty or give me death." They say, "Do not give me liberty. Do not give me freedom. Give me the chain of slavery, of Federal bureaucratic tyranny." Title IV of this bill would give them precisely this.

I do not propose to discuss title IV in detail at this time. The Senate has just heard a magnificent speech by the distinguished minority leader, pointing out the iniquities of title IV. I heard him refer to some of the statements in the press to the effect that if the minority leader stood against forced housing he would hurt the party of Lincoln. I am not a member of the party of Lincoln. I am, however, one who entertains great reverence for the character of that great American, and I am an American who believes in the two-party system.

I would say, Mr. President, that we have reached a tragic day in this Nation when it can be said that any political party, be it Democratic or Republican, will hurt its chances in an election by standing for freedom and liberty for the American people.

The truth is that we have not had many opportunities in recent years to judge how Americans feel upon issues of this character. I say that because in certain States of the Union the candidates for office of both political parties are like peas in the same pod in respect to all legislative proposals which threaten the liberties of Americans under the deceptive title of civil rights bills.

As the distinguished Senator from Illinois [Mr. DIRKSEN] stated a few moments ago, there was a primary election yesterday in the State of Maryland in which the open housing proposition was a major issue. The man who agreed with Lord Coke's statement that a man's home is his castle, and that even the king dare not invade it against the will

of its owner received, according to the most recent information, a plurality of the votes cast by Marylanders for the Democratic nomination for Governor of that great State. This primary result makes it apparent that when the people of a State are offered a choice between proposals for Federal legislation which would rob the American people of the freedom for which Patrick Henry spoke, and a continuation of that freedom, they cast their votes on the side of freedom.

The most sacred obligation resting upon government is its obligation to administer justice fairly. I have noticed that when civil rights proposals are made to Congress, they attempt to pervert, they attempt to distort, they attempt to prostitute the administration of justice.

This is so in title IV of the bill which is the subject of the pending motion for two reasons. The first reason is made manifest by lines 16 to 21 on page 28 of the administration's proposal. I shall read these lines:

(b) Upon application by any party and in such circumstances as the court may deem just, a court of the United States in which a civil action under this section has been brought may appoint an attorney for such party or parties and may authorize the commencement of a civil action without the payment of fees, costs, or security.

As I interpret those words, they authorize the court to appoint an attorney to represent the plaintiff, and they do not permit the court to appoint an attorney to represent the defendant, no matter how poverty stricken the defendant may be. That is a prostitution of the judicial process.

Any law which authorizes the court to appoint an attorney for the plaintiff should, as a matter of evenhanded justice, authorize the court to appoint an attorney to represent the defendant, also. But that is the kind of gimmick we can expect in a bill which was inspired by politics, which was conceived in politics, and whose passage is advocated in politics. There should always be a complete divorcement between bills of this nature and bills relating to the administration of justice.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. ERVIN. I am delighted to yield to my good friend the Senator from Ohio [Mr. LAUSCHE].

Mr. LAUSCHE. Have the proponents of the bill explained on what grounds they justify the provisions of the bill requiring the court to appoint a lawyer for the complainant, and not to appoint a lawyer for the respondent, regardless of the financial difficulties in which a respondent might find himself?

Mr. ERVIN. I listened during all the 22 days of hearings in the Subcommittee on Constitutional Rights for an answer to that question. It was never given. This is a bill which would oppress homeowners for the supposed benefit of a minority race.

They tell a story about the British flier whose plane came down in Ireland during the Second World War. Ireland, of course, was not engaged in the war. An Irish policeman arrested the British pilot but then permitted him to go. The policeman's superior officer found out that the policeman had arrested the pilot and then released him.

Said the superior officer to the policeman, "You should not have released him. Don't you know that Ireland is neutral?"

The policeman replied, "Yes, but I know which side we are neutral on."

It is the same with this bill: the Federal Government, the administration, and the advocates of the bill are neutral on the side of the plaintiffs in the suits to be brought under the bill.

Mr. LAUSCHE. The language which the Senator read definitely means that a complainant can go to a Federal court and ask for the appointment of counsel to bring action against the citizen on the ground that the citizen violated the law; is that not correct?

Mr. ERVIN. That is correct.

Mr. LAUSCHE. What if the respondent comes into court and says, "I am without funds. I cannot defend this action with the U.S. Government against me and I therefore ask you, on the basis of justice and fairness, to also appoint a counsel for me"?

Mr. ERVIN. The judge would have to say, in reply to that unfortunate defendant, "Congress won't let me."

Mr. LAUSCHE. That is the point which the Senator from North Carolina is trying to make with respect to this provision of the bill; is that not correct?

Mr. ERVIN. Yes. To show how unjust it is and how alien it is to the purpose of administering justice, I invite the attention of the Senator to lines 4 through 11 on page 35 of H.R. 14765.

The Senator can appreciate this, because he was a great equity judge.

These lines provide:

The court may grant such relief as it deems appropriate, including a permanent or temporary injunction, restraining order, or other order, and may award actual damages to the plaintiff, or, in the alternative, if the defendant has received or agreed to receive compensation for services during the course of which the discriminatory housing practice occurred, the court may award as liquidated damages an amount not exceeding the amount of such compensation.

I invite the attention of my good friend from Ohio to the fact when a suit is brought under title IV, the court is authorized to issue a restraining order. As my good friend knows, a restraining order is ordinarily issued by the court on the unproved allegations of the plaintiff without a hearing. Moreover, the judge may issue a temporary injunction to maintain the status quo until the final hearing upon the basis of affidavit alone. By such restraining order and temporary injunction, the court can prevent the owner of property from selling or renting his property for 1 year, 2 years, or 3 years or more if the docket is congested. Then, if the defendant wins the case, and it is found that the allegation that the defendant practiced discrimination against the plaintiff was not supported by the testimony, the defendant may be totally without remedy. This is true because the part of the statute which I first read declares that the court may allow the plaintiff to bring the suit without payment of fees or costs or the giving of security.

When our legal forebears invented the injunction, they saw that it is unjust to issue an injunction unless the party applying for it gives bond to secure the defendant against any damage resulting from its issuance in case the defendant eventually wins the suit.

What we have here is a bill which prostitutes the administration of justice by providing for the appointment of a lawyer for the plaintiff and not for the defendant and, by providing that the plaintiff can obtain an injunction without giving any security to protect the defendant against loss from its improper issuance. Hence, even if the defendant is innocent of any discrimination and is eventually absolved from all responsibility under the proposed law, he will suffer irreparable damage without in any way receiving any recompense for such damages.

Mr. LAUSCHE. Is it not a fact that from ancient times, in courts of equity, whenever a complainant asked for injunctive relief against a defendant, prohibiting a defendant from performing certain acts or using his property, the courts have uniformly declared that injunctive relief would be granted, provided one posted bond agreeing to indemnify the respondent if, at the end, the respondent were proved to be right and the complainant were proved to be wrong?

Mr. ERVIN. The Senator is absolutely right. Under no circumstances should an injunction ever be issued except upon the giving of bond or security to make certain that the defendant will be recompensed for any damages which he may suffer by reason of the issuance of an injunction, if he ultimately prevails in the case.

The provision here is totally incompatible with the administration of justice.

Mr. LAUSCHE. In the language thus far read by the Senator from North Carolina, is it correct to infer that injunctive relief granted by a court of equity, and damages granted by a court of law, all become available to the complainant who has been represented by a lawyer appointed by the court, but that the remedies normally provided in law and equity are not available to the defendant?

Mr. ERVIN. That is true. I say that the drafters of the bill are purposely and deliberately withholding from the defendant in a suit under this bill legal protection notwithstanding such protection is granted as a matter of right to the defendant in any other case.

Mr. LAUSCHE. Based upon the Senator's knowledge of the law of equity, is it fair to state that as a prerequisite to obtaining injunctive relief, in justice, if a defendant is prohibited from using his property, there should be provided a requirement that in the event a complainant cannot prove his case and the respondent has suffered damages and loss, that that respondent should be secure, through the posting of adequate bond, against such loss?

Mr. ERVIN. I would say that would be an essential requirement in any bill which was offered to the purpose of administering justice.

Under the injunctive process to be created by this bill, the plaintiff could get an injunction to prevent the defendant from selling his house for the best and most advantageous offer; and if the defendant won the case in the trial on the merits, he would not only lose the sale of the property but would have no remedy against the unjust suit brought by the plaintiff.

Mr. LAUSCHE. I am grateful to the Senator.

Mr. ERVIN. I said title IV has another provision which can be rightly called a prostitution of justice. It undertakes to establish what is called a Federal Fair Housing Board. Under this title every property owner in the United States who owns residential property and who rejects an offer for its purchase by a member of another race or adherent of another religion can be dragged before the Board. Exactly what the powers of the Board will be, the bill does not make plain.

Those who drew the House amendment to establish the Board were in such a big hurry to draw it and have it pass the House that they did not take the trouble to write out the powers of the Board in detail, or to prescribe the procedures of the Board or to specify the places where the Board should conduct hearings. The amendment merely says that the Board shall act in accordance with the statutes creating the National Labor Relations Board.

I was told by my father, when I was a small boy, that any job worth doing was worth doing well. I am sorry that the drafter of the amendment to establish the Board did not do his job well if he was going to do the job at all. The Board is to have the power to adjudge property rights for all Americans owning or renting residential property.

The people who founded America believed in the right of trial by jury. When Thomas Jefferson wrote the Declaration of Independence, he specified in that great document the reasons why the Thirteen Colonies should sever their political bonds with the mother country, England. He gave as one of those reasons the fact that the people of the Colonies had been denied the right of trial by jury in many cases.

When the Founding Fathers wrote the Constitution, they put four separate provisions in that Constitution providing for the right of trial by jury in criminal cases, providing for indictments by grand juries in criminal cases, and providing for the right of trial by jury in actions at law where the amount in controversy exceeded $20.

Yet we find the House adopted a bill under which the title to a man's home can actually be taken from him and vested in a person of another race, religion, or national origin, against his will. No matter how valuable that house might be in money, the provision of the House bill establishing the so-called Fair Housing Board would deny him right of trial by jury. The owner would not even have the right to have the case tried by the Board in the State where it arose.

I charge here and now that this provision was put in the bill because the proponents of the bill want to circumvent the right of the defendants to trial by jury and create a procedure by which the defendants will be denied the basic rights which they would enjoy in trials in courts of law where impartial judges preside.

There is irony in calling this proposed Board a Fair Housing Board. I predict that if Congress is foolish enough to enact this proposal into law and thus deny property owners access to courts and the right to established procedures which experience shows are necessary to the proper administration of justice, there will be nothing fair about this Board.

I say this for the reason that the experience of this Nation has shown that when boards of this character are established the public does not enjoy the services of fair and impartial board members, but, on the contrary, crusaders for the cause for which the board is created are appointed to those positions.

I have always suspected that the reason men devise schemes to have boards rather than juries pass on the rights of citizens is because they are afraid juries might do justice.

I sincerely trust that the motion for cloture will be defeated, and that I shall have an opportunity at a later date to speak in some detail in respect to title IV.

I should like to add one thing concerning title IV at this time. When this bill was introduced, I sent a copy of it to one of the best lawyers and most patriotic citizens of the United States and asked him for his comments on title IV. He replied that when he read title IV he found it almost unbelievable that any President of the United States should ask or expect any Congress to pass any bill which is so offensive to the spirit of the due process clause of the fifth amendment and which is so abhorrent to the freedom of all Americans. America has certainly come a long way since Patrick Henry extolled liberty.

Mr. President, I ask unanimous consent that I may yield to my good friend, the Senator from West Virginia [Mr. BYRD], for 10 minutes without losing my right to the floor and without having any subsequent remarks which I may have to make on the pending motion counted as a speech.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. I thank the senior Senator from North Carolina.

Mr. President, I will vote against cloture on the motion to take up the proposed Civil Rights Act of 1966. I will do this for two reasons. First of all, as a fundamental principle, I am opposed to forcing a closure of debate in the Senate on any measure and at any time except when the Nation's security and welfare may be otherwise imperiled.

Second, the proposed Civil Rights Act of 1966 would, if enacted as passed by the House of Representatives, create a preferential class of first amendment rights; restrict freedom of contract; vest broad new powers in the U.S. Attorney General and the Department of Housing and Urban Development; establish a Federal Housing Board with new regulatory and quasi-judicial powers; and open the doors for further incursions by the Federal Government into the day-to-day private and personal business affairs of the individual.

The House-passed bill provides an excess of remedies to one class of citizen and is heavily weighted against another citizen, and under title IV it is destructive of the right to freely use, manage, and dispose of one's own property, whether the property owner be white or nonwhite. Property sales would be impeded; property titles would often be placed under a cloud; while property owners, brokers, realtors, and financial lending institutions would be unjustly harassed by private persons as well as by government bureaucrats not answerable to or elected by the people.

A person has a right to acquire or rent property wherever he wishes, but the rights which are vested by title in the owner of property are superior to the rights of the prospective purchaser who holds no title therein, and the property owner is under no obligation, moral, legal, or otherwise, to explain his reasons for refusal to sell or rent to a particular prospective purchaser or tenant. Property rights constitute a basic human right, and, although a man's home, for centuries, has been considered his castle, the outer wall will be breached, the moat will be dry, and the drawbridge will be permanently down if the so-called Civil Rights Act of 1966 were ever to become law.

Mr. BYRD of Virginia. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. Mr. President, I ask unanimous consent that I may be permitted to yield to the distinguished junior Senator from Virginia for 10 minutes, with the understanding that by so doing I will not lose my right to the floor, and with the further understanding that any subsequent remarks I may make shall not be considered an additional speech on the pending motion.

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

Mr. BYRD of Virginia. Mr. President, I thank the distinguished Senator from North Carolina. I wish to associate myself with the distinguished Senator from West Virginia in the remarks he has just made.

I, too, shall vote against the motion for cloture.

The bill which is under consideration, H.R. 14765, is a very far-reaching piece of legislation. It can affect the daily lives and the property rights of all of the citizens of our Nation.

I am convinced, Mr. President, that before this legislation is enacted, there should be a thorough discussion of it on the floor of the Senate, and that the people of the United States should be aware of just how far reaching this legislation is, and should know far better than they do now the details it involves.

It is unfortunate that emotional aspects have obscured the broad constitutional issues.

There are eight separate titles in this legislative proposal. There has been very little discussion on the floor of the Senate. There have been only a half dozen speeches made in regard to it. As a matter of fact, when the cloture motion was filed 2 days ago, there had been only one speech in regard to the proposal.

If a motion for cloture is to be filed so quickly in the game, and this should become a precedent, we will soon come to find that a cloture motion will be filed along with the bill itself.

I think this is no time to put cloture on the Senate. The proposal is too far reaching. There has been too little discussion. Most of the discussion has been centered around one title—title IV; a vitally important one, it is true, dealing with whether a person shall be permitted to dispose of his property as he wishes—a very basic right of an individual.

But that is not the only proposal in H.R. 14765 that merits detailed consideration.

The distinguished Senator from North Carolina made what to my mind is a very telling point about title I of the proposal. I am taking these figures from memory, and if I am inaccurate, I hope the Senator from North Carolina will correct me, but, as I understand it, 58 Federal judges from all over the United States have indicated to the Senator from North Carolina that title I should be either completely rewritten or defeated, because it is so far reaching in its effects on the jury system of our Nation.

So, Mr. President, I again associate myself with the remarks of the Senator from West Virginia and the Senator from North Carolina in opposition to the cloture motion upon which the Senate will vote later in the day.

If the Senate votes today against cloture, I hope the majority leader will lay aside H.R. 14765 for the duration of this session.

But if the legislation remains before the Senate, I shall speak in detail in an effort to point out the legislation's far-reaching implications.

This I was prepared to do last Friday, but a quorum was not available.

Mr. HOLLAND. Mr. President, will the distinguished Senator from North Carolina yield to me very briefly, without losing his right to the floor?

Mr. ERVIN. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Florida, without losing my right to the floor, and without having any subsequent remarks I may make counted as an additional speech on the pending motion.

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

Mr. HOLLAND. Mr. President, I thank my distinguished friend, the Senator from North Carolina and captain of the team on which I have the honor to serve, for yielding to me briefly. I thank him further for having designated me as the Senator on his team who should have had the pleasure of opening this debate last Tuesday, a week ago yesterday.

I want the record to show that I was ready with a speech of some length, and that I regret the fact that nobody will ever have the opportunity to hear that speech. Maybe it has been a pleasure to others to miss that occasion, but to me it has not been a pleasure not to have the chance to deliver it. Under the circumstances which have arisen, I shall not have that opportunity.

I wish to call attention just briefly, however, to the peculiar facts in this situation. Mr. President, when the cloture motion was filed Monday morning, there had been just one speech in support of the position taken by the group of which I am a member—that is, the position of strong opposition to this bill. That was the case, Mr. President, because for 3 days of last week there were no quorums present.

I remember that day before yesterday, my distinguished friend, the Senator from Michigan, served notice to the Senate that 10 able members of the Judiciary Committee, whom he named, were supporting the measure, and placed in the RECORD a report showing their attitude on the matter. I want the RECORD to show, Mr. President, that those 10 distinguished Senators—and I shall call no names—did not show their enthusiasm in supporting the bill by their presence on the 3 occasions last week when no quorum was available. On Tuesday, which was the first day of the debate—announced 10 days or 2 weeks ahead of time—6 of the 10 members of the Committee on the Judiciary who were said to be supporting the bill and had signed the report were not present to help make a quorum. To me, that indicates no great enthusiasm for either bringing up the bill or supporting it.

On each of the 2 other occasions when quorums were lacking, 3 of the 10 distinguished Senators who supported the bill as members of the Committee on the Judiciary and whose statement of support was placed in the RECORD were not present to help make a quorum.

I have taken my figures from the reported voting record of the efforts to obtain a quorum last Tuesday and the other 2 days last week when no quorum was available.

As a result, those of us who oppose the bill have not been able to make statements which we have prepared carefully and upon which we have deep convictions. To my mind, that makes this situation vastly different from any other that I have known in the 20 years I have served in the Senate.

This is the first time that a cloture motion has been filed with virtually no chance given to the opponents of the measure, prior to the filing of the motion, to make their convictions known. Only one of the many opponents of this measure had been heard during the limited time that was available for debate last week.

Mr. President, the second thing that differentiates this situation so greatly from that which has obtained in other years is the fact that the so-called advocates of the measure have not seen fit to express on the floor of the Senate the reasons why they feel that this measure is worthy of passage by the Senate.

To my mind—and I have seen a good many of these extended debates—this is the first occasion, in at least 20 years, when such a situation has existed. I call the attention of the Senate to the fact that earlier this year, and in the latter part of last year, when efforts were made to call up a bill to repeal section 14(b) of the Taft-Hartley Act, long and exhausting debate was had by both the opponents and proponents of that measure upon the motion to take up.

That has been the case uniformly with reference to other instances of extended debate during the period of service of the Senator from Florida.

I do not know why my friends who claim to support the bill heartily have been unwilling or unable to make their statements on the floor of the Senate in support of the philosophy of the bill. But I call attention to this as indicating a very great difference between this situation and the situations which have existed heretofore.

I regret that, up to yesterday, we had not had any statement on the floor of the Senate in support of the philosophy of the bill. Yesterday, my distinguished friend, the senior Senator from Oregon [Mr. MORSE], in accordance with his custom, spoke out rather frankly, though very briefly, in support of the proposed measure.

Mr. President, with that exception, no statement has been made in explanation of the reasons for support of the proposed bill by those who support it.

I call attention to this as being a fact which greatly differentiates the present situation from that which has existed before.

I ask the Senate to form its own conclusions as to why these differences exist. But I do want the RECORD to show that they do exist. In particular, I want the RECORD to show that the cloture motion, filed at such an early date in the debate, has operated so as to prevent the making of statements by many Senators who are deeply opposed to the philosophy of the bill and who have prepared statements in support of their position. These Senators have not been given a chance to make their speeches.

I shall not take any more of the time of my distinguished friend, the senior Senator from North Carolina, who is so ably prepared on this measure.

I would feel derelict if I did not say, before yielding the floor back to the Senator, that the thanks of the Senate and of the whole country are due to the Senator for the deep study he has made of the proposed bill and for the way he has exposed the bill as being so thoroughly unconstitutional, so thoroughly unwise, and so thoroughly contrary to the philosophy of a free America which has prevailed ever since this country saw its beginning so many years ago.

I thank the distinguished Senator for yielding.

Mr. ERVIN. Mr. President, I thank the distinguished Senator from Florida

for his very gracious remarks concerning my activities in respect of the bill.

Mr. HART. Mr. President, will the Senator from North Carolina yield to me without losing his right to the floor?

Mr. ERVIN. Mr. President, I ask unanimous consent that I may yield to my good friend, the senior Senator from Michigan, and to the minority leader for a colloquy between them, with the understanding that by so doing I will not lose my right to the floor, with the further understanding that any remarks I may make subsequent to their colloquy shall not be counted as an additional speech on the pending matter, and with the further understanding that the colloquy will appear in the RECORD immediately before the beginning of my remarks.

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

Mr. HART. Mr. President, I thank the Senator from North Carolina very much. There may or may not be a colloquy. However, I think the RECORD should, in fairness, reflect that there was an interruption as the distinguished minority leader was concluding his speech. I was standing, seeking recognition. The Senator from North Carolina was recognized.

I then sought out the Senator from Illinois to ascertain whether he wanted to be in attendance when I finally had an opportunity to reply.

I discovered that, in the passage of some 30 minutes, one's bile subsides and nerves stop quivering. Much of the results of the note taking that I engaged in while our delightful friend, the Senator from Illinois, was speaking will just be put in my pocket.

It comes as no surprise that one deeply interested in the proposed measure was disappointed that the minority leader so clearly stated his inability to support the bill. However, that is not what is before the Senate.

The able minority leader correctly described the important contributions which I know of my own knowledge he made in the development of the Civil Rights Acts of 1960, 1964, and 1965.

Mr. President, we are asking today that the Senate be permitted to take up the proposed civil rights bill of 1966 so that we can do the same sort of job again. That is all that is pending as we approach the rollcall.

My disappointment was deepened because the minority leader felt that he could not assist us in permitting the Senate to consider the bill.

I think one need be no more than a reader of the daily newspapers to recognize that much effort has gone into the development of this piece of legislation over many months. Our colleagues in the House spent many weeks in the process.

The subcommittee, presided over by the distinguished Senator from North Carolina, spent many days of hearings on the bill and accumulated a record of some 1,800 pages.

The House-passed bill was substituted in that subcommittee. The subcommittee then made some further amendments to the House bill.

As the senior Senator from Florida remarked earlier, 10 members of the Committee on the Judiciary have filed the equivalent of a report on the bill. It is a full report. It describes the chronology, states the reasons that persuade that substantial majority of the Committee on the Judiciary that we should pass the proposed measure, and indicates the very limited number of additional amendments which we felt should be made.

Mr. President, in the light of this moment of history and the work that has preceded this day, I had continued to hope that the minority leader might at least see his way clear to support the effort to permit the Senate to complete its action on this legislation.

Other statements made by the minority leader went to other points, and some of these I was saddened to hear. But I think they do not bear on the question of whether the Senate should take up this bill today or not. So it is these references that I shall put in my pocket.

He asked, "Quo vadis?" in an analogy, and I think it fair on our part to ask, "Quo vadis?" If the report goes out in the cities of America that the Senate will not even be permitted to take up the bill, none of us has a crystal ball, and nobody knows what the response and reaction will be, but there are some very frightening possibilities.

This brings us to another aspect of the argument: The Senate ought not to act under pressure; there is misconduct abroad. I buy that argument. We ought not to legislate because of riots. We should legislate in spite of them. Over and above that, we should be permitted to get into the position where we can legislate and continue to respond in law as we did in 1964 and 1965.

The Senator from Illinois reminded us that we must do the right thing, whether it is popular or not. He made the statement that he would not be frightened by anything and that we ought not be. Then he mentioned the results of the Maryland primary, to prove I do not know which of those points. The results of that primary can be read any way one wishes; and if it has frightening political consequences to one for supporting this bill, then one should adopt the principle of doing what he thinks is right, whether there is political jeopardy or not.

If one wants to look at it on the basis that 2 to 1 the people voting in the Democratic primary rejected the man who mouthed that business about the castle, then one need not be brave at all. One can do what is right without being worried.

I return to the basic concern: There is a time to debate the constitutionality of this bill. There is a time to analyze, section by section, the titles, which in part was what the Senator from Illinois was doing this morning. But that time is when we have the bill before us for debate.

The Senator from Illinois inserted in the RECORD a letter from a constitutional law teacher. That letter will be read by us tomorrow, when the RECORD is printed, not today, when we have the question, Shall the Senate be permitted to debate the bill?

Those of us who are lawyers do have a responsibility beyond that of the nonlawyer, to make judgments with respect to the constitutionality of this and every other question. We can entertain in our own hearts whatever judgment of ourselves as constitutional lawyers we want to pass. I have not had any doubt about the constitutionality of this bill, but in my own heart I have never assigned myself the title "constitutional expert."

I am comforted that I shall have put into the RECORD again today a statement signed by 26 men whom the world labels as experts in constitutional law, their solid judgment that there is nothing unconstitutional about title IV. We can still disagree about that, but the time to debate that is when we have the bill up. Let us bring the bill up.

The Senator from Illinois also said that the concern of the public is not about race or color; it is about conduct. This was in connection with the discussion on the housing section. Nothing in that title denies the homeowner the right to pass judgment with respect to the conduct and the character of anyone seeking to purchase a home. All it says is that one shall not assert the right to judge him on the basis of color.

I hope that nobody in the Senate really wants to argue the proposition that one of our freedoms that must be protected is the right to discriminate against me because I go to a church that somebody else does not go to, or that I spell my name in a funny way, or bear a color that was given me by God different from the color that the other fellow was given by God.

Freedom of choice does encompass a broad reach, and it is basic in our society and is to be defended. But I see nothing offensive in imposing on property the prohibition that racial discrimination is one of the freedoms that may not be engaged in. As we all know, after the bill finally passed the House, this prohibition was diluted susbtantially.

But we still have the right, as each of us will insist shall be retained in this field and every other field, to judge a man on the basis of his being good or bad as an individual.

That is the way you and I want to be judged. That is the way we should be required to judge others.

Not all of the Irish are saints. Some of them are identified as exceptionally exemplary in their conduct. Some Negroes have rioted in the streets. So have some white. And they are a minority of both.

One of the clearest examples of racism is to take the position that some Negroes have rioted, and therefore all should be denied rights. I know that is an argument that some good friends of mine have used, and they would be shocked to hear it identified as racism; but it is racism, pure and simple. One Irishman is bad; therefore, they are all bad. One is a drunkard; therefore, the whole nation is composed of drunkards.

I do not like that reasoning, and for a good reason. I do not like to hear

that kind of reasoning used with respect to any other group.

The time will arrive in our proceedings when we can debate this bill line by line.

We cannot do that until the Senate permits us to take up the bill. When that day comes any number of responses can be made.

I do not see any violation of the first amendment—I say, as I turn toward the Senator from North Carolina [Mr. ERVIN].

I am not caused to worry by the suggestion of the Senator from Illinois [Mr. DIRKSEN] that because there is a requirement to reduce to writing a direction one gives for the sale of his property to a broker that free speech is shut down. My understanding is that the statute of frauds has been on the books for a good many centuries, and that enforcible agreements with respect to property always have been in the law.

But this is the kind of debate we will have when the Senate votes to debate the bill. We are now asking only that we be permitted to proceed to that debate.

The bill is responsive to needs which I think are documented. My greatest disappointment, therefore, is that the Senator from Illinois [Mr. DIRKSEN], whatever his views with respect to specific substantive features of the bill, could not and will not join us in an effort to permit the Senate to be in a position to work its will.

Mr. ERVIN. Mr. President, there are several very good reasons why the Senate should not take up the bill.

The first reason is that nobody ran for President or the Senate in the last general election on a platform urging legislation which would rob all American people of the right to determine to whom they should sell their property, or to whom they should rent it. So I think that before the Senate acts upon legislation of this character, we should await the happening of a general election in which all those who believe we should no longer have a free society in America can advocate forced housing and determine what their constituencies may feel with regard to the issue, and in which all of those who, like myself, still believe that we should have a free society, can take that position and ascertain whether the love of liberty still lives in the hearts of Americans.

We have a system in America today whereby any man of any race can buy a residence or rent a residence in any part of the United States if he finds a willing buyer or a willing landlord. It is ridiculous to talk about this being a bill to produce equality among the American people. Mr. President, if I can say to you under the law that you have to sell your house to me or rent your house to me, regardless of your wishes in the matter, it is foolish to maintain that you and I are treated equally. Your rights are subordinated to my wishes. In truth, you are put under bondage to me.

Let us consider the first amendment; the Supreme Court has handed down a number of decisions to the effect that one of the basic rights of all Americans is the right of freedom of association. Thus, Mr. President, this raises a very simple question, as far as title IV is concerned. The question is whether the American people shall have the right of freedom of association insofar as the establishment of residential areas is concerned. To put it in simpler terms, the question is whether the American people shall have the freedom to establish residential patterns in accordance with their own wishes or whether residential patterns throughout the United States shall be established by Federal bureaucrats sitting on the banks of the Potomac River. Such residential patterns as we have in the United States today were established by our people in the exercise of the rights which belong to men in a free society.

I have noticed in the East, and in the West, and in the North, and in the South, that where people are free to select their own associates and associates for their immature children, they virtually always select people of their own ethnic background. The truth is, Mr. President, that people have a tendency to segregate themselves in residential areas on the basis of race in accordance with a natural law that people seek neighbors of like ethnic origin. For that reason the effort to bring about compulsory racial integration in residential communities, as proposed in title IV of the bill, is an effort which is repugnant to a law of nature.

I happen to think that the most precious value of civilization is the freedom of the individual. Title IV is incompatible with the freedom of the individual; it is incompatible with a free society; and it is incompatible with the right of freedom of association guaranteed to all Americans by the first amendment.

Mr. President, another reason why the Senate should not take up the bill which is the subject of the pending motion is the fact that the House bill has never been considered by a Senate committee. While the Subcommittee on Constitutional Rights did conduct 22 days of hearings upon a so-called civil rights bill at this session, it was on quite a different bill from the one toward which the motion to take up is directed.

TITLE I OF THE CIVIL RIGHTS BILL: 1,000 YEARS OF WISDOM REJECTED

Mr. President, in the year 829 the Emperor Louis the Pious, son of and successor to Charlemagne, ordered that in the future, the royal rights were to be decided by the sworn statement of a jury of the "best and most credible people of the district."

"Monumenta Germaniae Historica, Capitularia," ii, No. 88, translated in Pound and Plucknett, "Readings," page 141. Today the Senate of the United States is asked to discard the wisdom gained through 1,137 years, by enacting title I of H.R. 14765.

It is difficult to speak too strongly against this title. Hearings before the Subcommittee on Constitutional Rights have demonstrated no need for the changes it proposes. Letters from Federal judges all across the Nation have demonstrated that the bill is badly drawn, unworkable, ill advised, and destructive of the right to jury trial as this Nation has known it since before the Constitution.

Mr. President, I hold in my hand letters from some 60 chief judges of Federal district courts from all areas of the Nation, disapproving of the provisions of the bill. I hope on some future occasion, if cloture is not voted, that I will have the opportunity to read these letters to the Senate.

The clerks of Federal courts, representing every circuit in the country, and regarded by the Administrative Office of the U.S. courts as among the best and most informed, testified to the bill's impractical and costly features, and unanimously recommended that it be postponed for study by the Judicial Conference.

This title was conceived in politics, drafted in ignorance, and advanced with a callous disregard for ordinary legislative process. It is contrary to the thoughtful conclusions of years of study by experts on the law and on jury trial.

One thing should be made clear. Title I is not a "civil rights" measure. It has never been claimed as such, and no proof or suggestion has been raised that Federal courts practice systematic discrimination against any group, either religious, ethnic, racial, or economic. The Attorney General in his statement before the Constitutional Rights Subcommittee said, "Title I seeks to end racial discrimination in our Federal jury systems." Yet the Attorney General could point to no instance in which racial discrimination has been practiced in Federal courts. The recent Rabinowitz case, which he now seizes upon to justify his case, held only that the system now in use was improperly administered. The opinion in the decision was roundly criticized even by one of the judges who signed it, as weak, unconvincing, forced, and a misreading of legislative intent.

The Attorney General proposes that we work a drastic reversal of hundreds of years of experience and wisdom in 4 short months merely because he raises the specter of discrimination.

It was not by accident that this title was joined to a highly controversial civil rights bill. The proponents should not claim ignorance of the fact that the emotional furor over the housing provisions of this bill would conceal the provisions of the Federal jury title. They could well expect that the jury title would sneak through without the critical evaluation it so desperately needed.

Thus, it did not come as a surprise to them, nor to me, that in the controversy over this civil rights bill, little attention was paid to the apparently innocuous title I. When the hearings began, I expressed the fear that despite the importance of any proposed change in our Federal jury system, this title would be largely ignored. My fears were borne out. The fact is that until the Subcommittee on Constitutional Rights wrote for opinions from the chief judges of the Federal district courts, there had been no substantive testimony on its provisions. Even the civil rights groups who appeared before the subcommittee

gave it only fleeting attention in their preoccupation with title IV.

Title I is an orphan in this bill. It has come to the floor of this body, one step—albeit a long one—from completing its legislative journey, only because its authors have forced many people, against their better judgment, to take sides in favor of its unwise provisions through the simple device of labeling it "a civil rights measure." It would have little support if it had been offered independently and forced to stand or fall on its own merits.

The Attorney General is a servant of the people. He has a responsibility as a Government officer to represent the best interests of all segments and groups of our Nation. But as the highest legal officer of our Government, he has an even more awesome obligation. He carries the responsibility for maintaining the integrity of our legal system, an institution reaching back far into the history of civilized man. Yet he proposes to discharge this duty by claiming that in 1 year he has discovered true wisdom; that all that has been done and written and worked upon to create the present Federal system of jury trials is useless, iniquitous, or so badly in need of repair that reform cannot be delayed—not even for the few short weeks it would take to receive the comments of the Judicial Conference. In 4 months he would have us discard the jury as we have known it since before our independence, and remake it according to the whim of the Department of Justice.

Before I detail the evils of this title, it would be instructive to review the course of jury reform in recent years. In 1941 the Judicial Conference of the United States appointed a committee of five district court judges to study jury selection in Federal courts. That committee, headed by the late distinguished Judge John C. Knox, a senior judge of the southern district of New York, issued its report in 1943. The Knox report has been called the most thorough study of methods of Federal jury selection ever undertaken. Several of the committee's recommendations were presented to Congress and resulted in a thorough reform of Federal jury selection. Other recommendations were implemented by the courts themselves.

In 1957 the committee was authorized to make a further study of the jury system, and it reported in 1960. Since the philosophy of title I is the complete antithesis of the findings of this report, I believe it would be most instructive to quote the first conclusion reached by the committee:

The jury holds in its collective hands the life, liberty and the welfare of individual defendants in criminal cases and the interests of litigants in civil cases. The importance of improving the calibre of these judges of facts is therefore self-evident. At the same time, jurors must be representative of the community in which they live. Therefore, the Committee recommends that the sources from which they are selected should include all social and economic groups in the community and the jury list should represent as high a degree of morality, integrity, intelligence, and common sense as the jury commission can find in each social and economic group by the use of impartial methods of selection.

So that a full comparison can be made between title I and the conclusions of the Judicial Conference, I ask unanimous consent that the full text of the introduction to the report and its conclusions be inserted in the RECORD at this point.

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

[The 1960 Report, the Jury System in the Federal Courts, Cited as 26 F.R.D. 409]

METHODS OF JURY SELECTION AND THE ADMINISTRATION OF THE JURY SYSTEM IN THE FEDERAL COURTS

INTRODUCTION

Trial by jury is one of the foundation stones of our system of jurisprudence. With the search for improvement in judicial administration have come attacks on the jury system and proposals for a curtailment of jury trials, the substitution of a system of compensation in motor vehicle accident cases and suggestions for broader use of arbitration. The Judicial Conference Committee on the Operation of the Jury System is of the opinion that trial by jury should be preserved and strengthened rather than eliminated or weakened. For years it has advocated improvements, many of which have been realized, but some remain unfulfilled. A short review of its work brings this out.

In 1941 the Judicial Conference of the United States authorized the appointment of a Committee of five United States District Judges to investigate the need for improvement in the methods of jury selection in United States courts. That Committee made a comprehensive study of the problem of jury selection, and presented its final report to the Judicial Conference in 1943. The report, with recommended legislation, was approved by the Judicial Conference, and distributed to all federal judges and the larger bar associations in the country. Some of the recommendations have been enacted into law by Congress, and many others have been adopted and followed by the trial courts. The Committee report, known as the Knox Report, as Judge John C. Knox was then Chairman of the Committee, has been cited by many text writers, and was, perhaps, the most thorough study ever undertaken on methods of jury selection in the federal courts.[1]

For the past seventeen years the Committee has been retained by the Judicial Conference. From time to time its membership has changed. The scope of its study has been enlarged to include not only the method of selecting juries, but also all matters relating to the operation of the jury system in the federal courts. It is now known as the "Judicial Conference Committee on the Operation of the Jury System."

Through the work of this Committee, legislation has been enacted to establish uniform qualifications for jurors in the federal courts, without discrimination as to sex or race, and from time to time to increase the compensation, subsistence and mileage allowance to jurors. Methods have been encouraged to insure that all economic and social groups of the community are represented and that those persons selected from the various groups should possess as high a degree of intelligence, morality, integrity, and common sense, as can be found; the practice of use of the questionnaire and personal interview method in the selection of jurors has been promoted, thereby eliminating prospective jurors who are either disqualified or unable to serve because of physical handicaps; the cost of the operation of the jury system has been reduced without impairing the work of the courts, and many other ideas have been promoted for improving the jury system and are now in use.

Many bills, introduced in Congress affecting the jury system, are referred to the Judicial Conference for its views, and by it referred to the Jury Committee for study and report. The action of the Judicial Conference is made known to the Congress, and a member of the Jury Committee appears before the appropriate Judiciary Committee to give the reasons underlying its recommendations. Recommendations received for legislation from the various Circuit Conferences, or from circuit or district judges, are handled in the same manner.

Although much has been done to improve the quality of jurors serving in the courts, and to increase the efficiency of the jury system, much remains to be done. As a consequence, at its meeting in September 1957, the Judicial Conference authorized this Committee to make a further study of the jury system in the federal courts, and to utilize the assistance of the Institute of Judicial Administration in this work.

A detailed questionnaire was prepared and distributed to the clerk of each United States district court, requesting a full description of the operation of the jury system in his district. Copies of this questionnaire were also sent to all district judges and jury commissioners for their information. These replies, thoughtfully and accurately prepared, constitute a valuable and unique primary source of information upon methods and problems of administration of the jury system in the United States. They were studied and collated by the Institute of Judicial Administration, and the resulting compilation constitutes a distinct contribution to the understanding of the complex problems involved in the operation of the jury system.

In addition thereto, the Institute has made special studies on various phases of the jury system. After these various primary sources of information had been studied, they were considered in detail by the Committee, representatives of the Institute, and the Administrative Office. A preliminary draft of the report was then sent to all federal judges asking them for suggestions and criticism. After considering the replies, the present report was prepared. The conclusions reached by the Committee are the basis of this report.

A few of these conclusions are of paramount importance:

The jury holds in its collective hands the life, the liberty and the welfare of individual defendants in criminal cases and the interests of litigants in civil cases. The importance of improving the calibre of these judges of the facts is therefore self evident. At the same time, jurors must be representative of the community in which they live. Therefore, the Committee recommends that the sources from which they are selected should include all social and economic groups in the community and the jury list should represent as high a degree of morality, integrity, intelligence and common sense as the jury commission can find in each social and economic group by the use of impartial methods of selection.

To make the selection representative, all groups in the community should be included in the sources from which the list is chosen; women, now everywhere eligible in the United States district courts, should be used; volunteers for jury service should be refused, and economic and social status, including race and color, should not be considered, except to prevent discrimination. The freedom of choice is now much greater than formerly because the qualifications and exemptions of jurors prescribed by state law are no longer applicable in the federal courts.

[1] The members of the Committee serving with Judge Knox were: Judges Colin Neblett, New Mexico, Walter C. Lindley, Illinois, James M. Proctor, District of Columbia, and Harry E. Watkins, West Virginia.

In order to get better jurors, the Committee recommends greater care in the compilation of the list of jurors whose names go into the jury wheel or box from which trial jurors are chosen. To bring this about it recommends legislation putting the court in control of the selection of names, and providing that the commission, consisting of the jury commissioner and the clerk, should operate under the direction of the court, that questionnaires should be used to supply information as to the qualifications of jurors, that where feasible the questionnaires should be supplemented by personal interviews and finally that full-time jury commissioners may be appointed where needed, with the approval of the Judicial Conference.

Many other suggestions are discussed and a number are approved. The Committee submits this report to the Judicial Conference and to the Bench and Bar with a deep sense of the importance of the subject and a realization that improvements in the jury system as well as in other phases of judicial administration must be made if the jury system is to be retained as a vital part of the administration of justice in a modern world.

Acknowledgment is made to the Institute of Judicial Administration of New York City for the great contribution it has made to this project, and for the advice and help of Professor Shelden D. Elliott, Professor Delmar Karlen and Mrs. Fannie J. Klein of the Institute in the draft of the report, to Mr. Alan Liker, a research assistant of the Institute, for his work, to the clerks of court and jury commissioners for their lively interest and painstaking replies to the Committee questionnaires, and to Judge Richard Hartshorne, United States District Judge for the District of New Jersey and Honorable Leland L. Tolman, Deputy Administrator of the Judicial Conference of New York for valuable help and assistance.

The Director of the Administrative Office and his assistants have assisted the Committee in gathering the data for this report, and Will Shafroth, the secretary of the Committee, has been of great assistance in every phase of the project, including much of the draftsmanship.

RECOMMENDATIONS

The following recommendations concerning the selection of jurors and operation of the jury system constitute the conclusions of the Committee:

I. In order that grand and petit jurors who serve in United States district courts may be truly representative of the community, the sources from which they are selected should include all economic and social groups of the community. The jury list should represent as high a degree of intelligence, morality, integrity, and common sense as possible.

II. The choice of specific sources from which names of prospective jurors are selected must be entrusted to the clerk and jury commissioner, acting under the direction of the district judge, but should be controlled by the following considerations: (1) the sources should be coordinated to include all groups in the community; (2) economic and social status including race and color should be considered for the sole purpose of preventing discrimination or quota selection; (3) women are now eligible by law for jury service in federal courts and they should be selected and called to serve without discrimination on account of sex; (4) political affiliation should be ignored; (5) generally speaking, unsolicited requests of persons who seek to have their names placed upon jury lists should be denied and unsolicited recommendations of names should not be recognized; and, (6) in determining the parts of the district from which jurors are to be drawn,[2] the courts should bear in mind the desirability of conserving the time of jurors and preventing exorbitant travel expense to the government.

III. The statutory requirement that federal courts must observe the qualifications and exemptions prescribed for jurors in the state courts has been abandoned, and jurors should now be called without regard to state qualifications.

IV. The previously recommended legislation for improving the method of jury selection is again endorsed. It provides: (1) final responsibility and choice of means of selecting jurors rests with the district judge; (2) the names of all prospective jurors must be chosen under the direction of the court by a jury commission, consisting of the clerk and a jury commissioner; (3) the per diem compensation of jury commissioners be increased to $10.00 per day, without limitation as to the number of days which can be served, plus travel and subsistence allowances; (4) in districts where the full time of the commissioner may be needed for the adequate performance of his duties, the court may, with the approval of the Judicial Conference, appoint a full-time salaried jury commissioner; (5) in selecting names, the jury commission may send out questionnaires, conduct personal interviews, and use other procedures to determine the fitness of those under consideration; (6) prospective jurors willfully failing to respond or falsely answering may be punished for contempt; (7) throughout the entire process of selection, the commission may avail itself of the facilities of the office of the clerk of the court and members of his staff, and (8) the jury commission must arrange for the drawing from the names of qualified persons, of the jurors who are to be summoned for the various terms of court, and at least one member of the commission must participate in the drawing.

V. In order to determine whether persons under consideration for selection as jurors possess the required qualifications, it is recommended that, when practicable, the practice should be followed in every district of requiring each prospective juror to answer a questionnaire and, where conditions permit, to be personally interviewed, except that in the case of prospective jurors who appear to be clearly qualified or disqualified on the face of the questionnaire, personal interviews may be dispensed with. Where such practice is followed, no name should be placed in the jury box or wheel, or added to the jury list, until the jury commission, from its investigation, is satisfied that the juror is qualified. An example of a questionnaire and form of letter enclosing it, prepared by the Committee, is included in the Report.

VI. An opportunity to apply in writing to be excused should be given before the juror appears for service. If the juror does not apply in advance, but is later excused on his own request after being summoned, the juror should not be paid, either per diem, mileage or subsistence, unless the excuse is one which he could not reasonably have been expected to present before he appeared. In the latter event, the matter of payments should be in the discretion of the judge.

VII. After jurors have been called for service, the district judge should pass upon excuses, and that duty should not be delegated to the clerk or any other person.

VIII. Exclusion from the jury panel or from jury service of classes or groups should be done only with due care and solely by a formal written order of the court.

IX. The mechanics of jury selection and the form and content of records in the office of the jury commission should be given constant and careful attention by the court and the jury commission to the end that clerical work may be at a minimum consistent with efficiency.

X. Waste in the time of the jurors and in government funds can be avoided. This can be accomplished in most multiple-judge courts by placing in the chief judge, or a judge designated by him, assisted by the jury commission, the responsibility for the administration of jury selection, and of the assignment of jurors. In metropolitan districts, jury pools can be used to advantage and will promote the juror's comfort as well as economy of operation.

XI. The present statute authorizing the court to order jurors to be summoned by registered or certified mail instead of by personal service of the summons is satisfactory and should be employed uniformly in all districts. The use of certified mail is recommended as being cheaper and equally satisfactory.

XII. The assignment to trial work of jurors reporting for service should be by lot from beginning to end. All jury pools or rotating systems of assigning jurors should operate by lot.

XIII. The accommodations of courthouses should be such that jurors are not required to wait in corridors and crowded anterooms to be called for service. If a jury pool system is used, suitable and comfortable waiting rooms should be provided. Adequate arrangements for the comfort of women jurors should be provided and no juror should be kept waiting in reserve beyond the time when it can be ascertained that he will not be needed for that day.

XIV. The use of talesmen for petit juries, as authorized by 28 U.S.C.A. § 1866(a) should be reduced to a minimum.

XV. No person should be required to serve as either a grand or petit juror oftener than once in two years. The law presently provides that a petit juror may be challenged if he has previously been called for service within a year.[3]

XVI. All jurors should be given accurate instruction regarding the nature of the duties they will be called upon to perform. To this end it is recommended that the district judge should make it a regular practice to deliver general and carefully prepared oral charges to the grand jury when it is impanelled, and to give all petit jurors instructions acquainting them with the general nature of their duties.

A handbook for petit jurors stating in simple and general terms the duties of petit jurors, originally drafted in 1942, has been recently revised. This is a useful device for acquainting petit jurors with their duties and has been approved by the Judicial Conference of the United States for use by the United States district courts. Its use is again recommended by the Committee.

XVII. The voir dire examination of trial jurors by the judge results in great savings of time and the character of the examination is thereby much improved. The Committee recommends that this practice be followed in all districts where the jury is selected in the presence of the judge.[4]

XVIII. The present federal practice, which permits the trial judge to instruct the jury orally, and to comment upon the evidence, is an outstanding and satisfactory feature of federal procedure and should be preserved.

XIX. The number of jurors necessary to dispose of pending cases may be somewhat

[2] See 28 U.S.C.A. § 1865(a).

[3] 28 U.S.C.A. § 1869.

[4] "Examination of Jurors. The court may permit the parties or their attorneys to conduct the examination of prospective jurors or may itself conduct the examination. In the latter event, the court shall permit the parties or their attorneys to supplement the examination by such further inquiry as it deems proper or shall itself submit to the prospective jurors such additional questions of the parties or their attorneys as it deems proper." Fed.R.Civ.P. 47(a), 28 U.S.C.A. See also, Fed.R.Cr.P. 24(a), 18 U.S.C.A.

reduced by full utilization, under the direction and with the encouragement of the court, of the provisions of existing law which permit the waiver by the parties of their right to jury trial in both civil and criminal cases, and of the provisions which permit the parties to stipulate for trial by juries of less than 12 persons or to accept verdicts of a majority of the jurors rather than unanimous verdicts, and by other techniques successfully used in some districts hereinafter described.

XX. Trial jurors should, in the discretion of the trial judge, be permitted to take notes for use in their deliberations regarding the evidence presented to them and to take these notes with them when they retire for their deliberations. When permitted to be taken, they should be treated as confidential between the juror making them and his fellow jurors.

XXI. The subsistence allowance of jurors who are required to remain overnight should be increased from $7.00 to $10.00 per day, and the daily interim travel allowance should be limited to what the juror would receive as subsistence allowance.

Mr. ERVIN. Mr. President, in essence, there are two characteristics that the Judicial Conference recommends for juries; that they be drawn from all groups and segments of society, and that those selected be the best, in terms of intelligence, integrity, morality, and commonsense, of these groups. The bill that the Attorney General recommends, however, would discard this second critical factor. He would choose at random from the community and enlist as those to be given power over liberty, property, and even of life itself, a "cross section" of jurors, including those of the lowest level of intelligence, morality, integrity, and commonsense. Instead of a jury consisting of "12 men good and true," he would enact into positive law Herbert Spencer's opinion that a jury consists of "12 men of average ignorance." In fact, this title goes even further, for the people on the jury might be well below average ignorance, depending on the laws of chance and circumstance.

When the Attorney General testified before the Senate Constitutional Rights Subcommittee on title I, he was asked whether he had conferred with any Federal judges on the proposals he was advancing. He replied:

We did in drafting of this legislation have the benefit of a study done by the Judicial Conference some years ago. We made use of that in drafting it. We certainly did consult with a number of judges with respect to this.

The subcommittee also decided that it would be wise to consult with judges on this jury legislation especially since the report the Attorney General said he studied appeared to be so different from the bill he drafted.

The subcommittee wrote to each of the 90 Federal district court chief judges in the United States, enclosing a copy of the changes proposed by S. 3296. I have reported to the Senate at length on the responses to this inquiry because of the severe criticism and opposition almost unanimously expressed by the judges. To date, we have gotten over 60 replies—only 2 expressing support for the bill.

It developed from this survey that, very frankly, the measure was a complete mess. Not only does it represent sloppy thinking, but there are some 80 amendments proposed to clean up its sloppy draftsmanship.

Only recently have the bench and bar become aware of the dangerous provisions of title I. The overwhelming opposition from the Federal judges resulted in a proposal before the recent American Bar Association meeting in Montreal to recommend postponement of action by Congress until the bill had been studied. A frantic call to Washington alerted the Attorney General to what he considered the impending disaster. In an impressive speech which displayed more passion than accuracy, he managed to convince the delegates at Montreal that civil rights, justice, and the Great Society would never survive if the motion to study the bill were adopted. By a close vote the American Bar Association declined to take action.

In order to meet the overwhelming opposition from the Federal judges, the Attorney General recently wrote a long letter to every chief judge defending title I. He has kindly provided me with a copy. The letter begins:

I am writing to explain the provisions of title I of the pending Civil Rights Act of 1966.

It was the position of the Attorney General—and he has clearly said as much—that the judges who had opposed title I in letters to me had misread or misunderstood the bill which I had sent them. These judges, who are paid to interpret the laws, had, according to the Attorney General, misunderstood title I, which pertains to juries, a matter directly within their personal responsibility.

Mr. President, an editorial in the Charlotte, N.C., Observer of Tuesday, August 16, very succinctly deals with this condescension from the Attorney General. I would like to read it at this point:

NON COMPOS?

Those 44 unhappy federal district judges, explains Attorney General Katzenbach, simply "misread" President Johnson's proposals for eliminating racial discrimination in federal jury selection.

Katzenbach's assumption, of course, is that if those judges had read the proposed law "correctly," they would have raised no objections.

Very well. Yet one nagging question remains. In what field are federal judges presumed to be experts? Somehow we had the notion it was the understanding and interpretation of federal laws.

In closing his eight-page letter to the judges, the Attorney General expressed his appreciation for the "thoughtful criticisms and suggestions" they had made. He invited them to send any other comments or suggestions they might have. Today is September 14. The letter was dated August 27. Since he has refused to postpone action on this bill pending receipt of these additional suggestions, presumably he contemplates offering remedial legislation after January 1; after, as he hopes, the bill has already become law.

I have requested formally and informally that consideration of title I be postponed until it could be carefully considered by the Judicial Conference. The Conference is composed of representatives of each judicial circuit, district court judges, and judges from specialized courts. The Chief Justice of the United States presides over the Conference. Ever since its creation every serious proposal affecting the administration of the courts has been referred to the Conference.

On May 13, the Chief Justice expressed some concern over pending civil rights legislation affecting juries. There has been some dispute over which of the many bills introduced he had reference to. It has been strongly denied that he was referring to S. 3296. Yet, a few short weeks ago Judge Kaufman, of New York, was appointed Chairman of the Conference Committee on the Operation of the Jury System, and while still traveling abroad, the Chief Justice appointed the other members of the committee. The committee met this Monday, and the full Conference is scheduled to meet September 20. At these meetings, the jury reform rider to this legislation will be thoroughly and expertly considered.

The Attorney General refuses to wait until the Conference has met and considered title I. He says that he has already had the benefit of the views of the Conference. Time, he says, admits of no more delay. He suggests, in essence, that the Federal jury system, in operation these past 175 years, has been operating badly, that it is constitutionally defective, that the remarks of judges and the opinions of cases are mistaken, and that if something is not done this instant, the entire structure of American justice may collapse. Although he did not experience this revelation until his fifth year in the Justice Department, he expects Congress to act on it in 4 months.

I ask that this body show wisdom by not calling up title I until it has had the benefit of the views of the Judicial Conference. Surely the jury system which has worked so well for so long can limp along a few more weeks until the judges have had a chance to consider the legislation. As I mentioned earlier, the Attorney General stated during the hearings that he had had the benefit of the 1960 report of the Judicial Conference in drafting this legislation. In the view of many Federal judges, title I is contrary to this report.

Legislation intended to implement the recommendations of the report was already before Congress when this measure was introduced. H.R. 5640 passed the House of Representatives and was referred to the Judiciary Committee earlier this session. This bill authorizes a jury commission, acting under the supervision of the court, to select names of prospective jurors from sources prescribed by the court. It would establish commissions with members of outstanding character, to share with the court responsibility for obtaining fair, impartial, representative, and high-caliber juries.

In March 1965, hearings were held before the Subcommittee on Improvements in Judicial Machinery. The bill was supported by the Justice Department and the Judicial Conference. This support, insofar as I am aware, was not formally withdrawn until attention was drawn to it during the Senate hearings on title I.

If title I is so important that delay of a few weeks or a year cannot be tolerated, I wonder how this situation came to pass. Did the judges on the Knox Committee not see this need? Did the Judicial Conference in 1960 overlook it? Why did title I not appear in earlier civil rights bills? Why did the Attorney General support H.R. 5640 and guide its passage through the other body and through a Senate subcommittee? Why, if the need for title I is so critical, do so many judges oppose its immediate enactment? Why has the Chief Justice reconstituted the Committee on the Operation of the Jury System? Why, if the Justice Department conferred with judges and has the benefit of the Judicial Conference's report, does he oppose waiting for them to meet later in the month? Why did 10 clerks, from every circuit in the country save 1, appear to oppose the bill and recommend further study?

The reluctance of the Attorney General to allow closer scrutiny of title I may be explained by the language of the bill itself. Its provisions cannot even withstand a cursory examination of the bill. That first reading will demonstrate why it desperately needs the assistance of impartial and unemotional study. It may also suggest why it was wrongly joined with a highly controversial civil rights bill instead of being offered as a separate bill.

Before I examine the bill in detail, I will comment briefly on the wholesale repeal of existing provisions of chapter 121, of title 28, United States Code that is worked by this bill.

As originally drafted and submitted, the bill did not even permit the exclusion of critical occupational groups from jury service. In their haste to impose their new-found wisdom on the Nation, the drafters repealed section 1863 of the code, which permitted the court to excuse doctors, lawyers, nurses, and other persons with critically needed duties from service on juries. The House of Representatives showed more wisdom than did the Justice Department and saved section 1863 from the wastebasket.

But it is evidence of the slight concern for the needs and orderly processes of Federal courts that the bill still repeals section 1866, which allows use of tales jurors. There is a reasonable difference of opinion as to the usefulness of talesmen. The report of 1960 by the Judicial Conference recommended that their use be kept to a minimum and then only when necessary.

But to repeal entirely section 1866(a) ignores the very practical reason for its present statutory authority and the explanation for the Judicial Conference's reluctance to recommend its complete abolition.

Section 1866(a) is a necessary part of the United States Code needed to prevent the disruption of isolated Federal courts. It occasionally happens that a Federal court sitting for a short while in a remote corner of a sparsely populated State suddenly finds that too many jurors have been struck from the venire, or that from some oversight the need for jurors is larger than was originally planned. In these circumstances, the marshal is instructed to summon persons from the public at large, and they are immediately examined for qualification as jurors.

Without this emergency authority, what is the court to do? It would be forced to suspend the trial, disrupt the schedule of the court, inconvenience the lawyers, the parties, the witnesses, and the judge, and wait for the jury commission to draw, locate, serve, qualify, and summon the additional few jurors to court.

Whatever may be the merits or shortcomings of using tales jurors, in these unique emergency circumstances their use is far preferable to the cumbersome selection procedures required by this bill.

I raise this problem to illustrate just another instance in which careful study is needed before we discard, wholesale, accepted principles and practical rules. There are many other questions that should be studied before changes are made in the existing system. This is true even if we accept the principle embodied in title I.

As I have stated earlier, it would be an insult to the orderly processes of legislation and totally irresponsible for this Congress to reject the accumulated wisdom of so many years merely because the Justice Department feels "it can't wait—can't live with the present system." Well, the Nation has lived with this system for hundreds of years. The present Attorney General lived with it for 5 years. We should ignore his imperious order. The jury system deserves more reasoned consideration.

I turn now to an examination of the provisions of title I in detail to illustrate why I consider this measure ill considered and destructive.

Title I begins with a statement of the policy of the United States with respect to Federal jury trials. It states that no citizen shall be excluded from jury service because of the class or group from which he comes. It also states that all qualified citizens have an obligation to serve as jurors when called. This is merely a restatement of constitutional and traditional law and there is nothing objectional in it save that it might be more artistically drawn.

However, with little knowledge of its effects, the House of Representatives added a sentence to the original draft of section 1861 as submitted by the Department of Justice. This sentence declares that as of right, all persons are entitled to a jury drawn from a cross section of the community. While admittedly the right to a representative jury is a traditional and necessary part of the right to an impartial jury, the addition of these words in the United States Code will work a mighty change in the operation of the jury system.

If every man has a right to a jury drawn from a cross section of the community, and this right is expressed independent of, and distinct from the right to an impartial trial, then hoboes and bums may object to the absence of bankers and millionaires from the jury rolls. Any defendant, indeed, any party in a civil case, may use the generous and obstructive challenge provisions of section 1867 to challenge the jury and delay the case. All he need do is find a slight discrepancy between the myriad groups, occupations, faiths, and classes in his community and their representation on the jury venire. He need claim no discrimination. He need show no prejudice, actual or presumed, from the underrepresentation of this group. Since the court and jury commission are charged by law with carrying out the announced policy of section 1861, any such discrepancy could be challenged.

The addition to the statutes of the absolute right to a jury from a cross-section of the community will work a subtle and profound reversal of consistent court precedent. The law has always regarded a representative jury as an important right, but a right to be measured against the test of an impartial jury. Hitherto, actual or presumed prejudice, or exclusion so egregious that it contaminated the entire jury venire, had to be shown. At the least, the challenging party has to show some relationship between the slighted group and prejudice to his right to an impartial jury.

I do not argue that a jury representative of the community is not a basic feature of an impartial trial. I do object to a careless embodiment of this principle as an absolute feature in positive law. I object to a casual reversal of reasoned and intelligent precedent which, together with the other thoughtless provisions of this title, will threaten chaos and complete disruption of the Federal jury system.

As freewheeling and generous as is section 1861, the policy section carefully omits important language regarding the quality of these Federal juries. Missing is the first and most important recommendation of the Judicial Conference that "the jury list should represent as high a degree of intelligence, morality, integrity, and commonsense as possible." This omission goes to the heart of the legislation. It is the avowed purpose of the measure that integrity, morality, intelligence and commonsense not be a characteristic of Federal juries. This is contrary to the declaration of Louis the Pious, contrary to Blackstone, contrary to the report of the Judicial Conference which the Attorney General said he had the benefit of in drafting this legislation, contrary to the time-honored practice of Federal courts, and contrary to the intent of H.R. 5640, which the Justice Department supported until so recently.

After section 1862, the title then goes on to authorize a jury commission composed of the clerk of court and one citizen of the opposite political party. I will offer an amendment—assuming that the dictates of wisdom are ignored and this bill is called up—which will allow the appointment of more than one commissioner. This permissive authority is contained in the Judicial Conference supported bill, H.R. 5640, and permits the already heavy burdens of the jury commission to be divided among more than one official. The Constitutional Rights Subcommittee accepted this amendment and I recommend it as one minimum essential change.

The following two sections, 1864 and 1865, establish a complicated and expensive procedure for selecting and qualifying prospective jurors. The commission is directed to use voter registration lists as the primary source of juror names. Now it is a sad but true fact that voter registration approaches at best only 75 percent of the eligible citizens of the country. So at a start, 25 percent of the population is rendered ineligible for jury duty in violation of the policy of the title and in violation of the mandates of Supreme Court decisions.

The title does allow the use of additional sources of names. However, it requires that the registration lists be kept as the principal source. In some areas, such as the District of Columbia and my own State of North Carolina, there are alternative sources of names far superior to registration lists. The District uses a city directory containing the names of every resident in the city. In other districts it may well be that one or a combination of sources will give a comprehensive list of nearly every potential juror. In these cases the requirement of the registration list is superfluous and merely creates additional burdens on the already overworked court staff.

An additional defect in using voter registration lists is the fact that in many areas registration is permanent. These lists contain names of persons no longer residents and no longer voters. In some places, these lists are cleared by election officials only occasionally, and I have no doubt that in many areas, the lists are years out of date. The lists also contain the names of people who have died and, while some may consider them nonetheless qualified for voting, this just adds to the burden of the jury commissioners who must send them qualification forms or call them in for interviews, send the marshal out to find them when they do not respond, and keep records on these efforts for 6 years afterward. Reliance on registration lists ignores a major recommendation of President Kennedy's Commission on Registration and Voting Participation, which specifically disapproved of using such lists as sources of prospective jurors.

To show how impractical this requirement is, I point out that in the State of North Carolina we have approximately 2,300 registration lists in various State precincts for voters in statewide elections. In addition, hundreds of municipalities have separate registration lists for voters residing in those municipalities.

We also have, in many cases, school districts and other political subdivisions of the State government which have separate voting lists.

If title I of the proposed legislation is passed in its present form, it will require an inspection of all these various registration lists in all of the political subdivisions of North Carolina by the court clerks and the jury commissioners in order to select the names of persons to go into the jury boxes for the Federal courts in the three districts of North Carolina.

The original text of title I required that at least 1 percent of the names on these voter registration lists be put in a giant master wheel. If this number was too large, it could be reduced to not less than 2,000 names. The present language wisely reduces these numbers to one-half of 1 percent or three times the jurors actually used.

This is a great improvement. Letters from judges have informed the subcommittee that in some districts as few as 65 jurors are used. In other places court is held for just a few weeks, while in largely populated districts, these requirements would mean some 15,000 to 30,000 names in the master wheel. For our overworked judges and clerks, these numbers are far too excessive. The bill supported by the Judicial Conference required not less than 300 qualified names in the jury wheel.

I would suggest that the minimum number in the master wheel of unqualified jurors be set by the judge, who knows from experience how many names are needed to produce a qualified list of sufficient size.

H.R. 14765 requires that the master wheel be emptied and refilled every 2 years between November 15 and December 30. This 6-week period is far too short. It comes right in the middle of the court session, when the press of regular court business fully occupies the time of the court personnel and the clerk. And since the bill does not say otherwise, apparently the court will have to qualify new jurors to sit in cases starting January 1.

I am informed that in the middle district of North Carolina it has been estimated that it would require 12 additional employees working full time for 45 days prior to November 15 to meet this deadline. Since the voter registration lists probably would not become available until after election, this is an impossible task. It would be far preferable, if the courts are to be saddled with this title, to allow them to reconstitute the master wheel periodically at their own discretion, rather than to prescribe a fixed period. At the very least, the fixed period should be sufficiently long to permit the court to attend to its other responsibilities at the same time. The Constitutional Rights Subcommittee amended the bill by making July 1 the deadline, which I consider to be the minimum time limit if any is to be set.

The bill then proceeds to set forth the process by which persons selected from the master wheel are qualified for jury service. First, under section 1865(a) a standard qualification form is to be drawn up by the Administrative Office of the U.S. Courts in consultation with the Attorney General. Since the bill was drafted in the Justice Department, perhaps we should not be too surprised to find that the major litigant in Federal courts has a hand in drawing the form which qualifies the juries which will sit on its cases. The responsibility for administering the jury system rests with the judicial branch of the Government. The executive branch has no place participating in the running of the courts. It should be sufficient that the Justice Department recommends the judges in Federal courts. Certainly it has no business selecting the juries. The subcommittee adopted an amendment deleting this authority and I commend it as an important improvement.

The form given all selected persons requires a multitude of information, and originally asked that the juror put down his "race," "religion," and "occupation." The policy of the title prohibits discrimination according to race; under the provisions of the bill, such discrimination would be impossible.

Race and religion are no business of the Government. There are court decisions saying that the inquiry by the jury commission into race or religion is impermissible and probably unconstitutional. We must not destroy civil liberties in the name of civil rights. I believe we do just that by establishing the idea among Americans that somehow a person's race or religion is a factor for becoming a juror in a Federal court of law.

In hearings, the Attorney General stated that no person would be required to give his race or religion. But the Department of Justice admitted that this would not be made known to the juror. It is an ominous sign that the Justice Department admits they have no right to require such information, but objects to letting the people know they need not give it. So, in effect, the people can decide for themselves whether "race" may constitutionally be required of them from a U.S. court pursuant to Federal law. To help them make up their minds on this question will be the clear warning that failure to comply with the summons to fill out the form, or the willful misrepresentation of a material fact concerning one's qualifications can result in $100 fine or 3 days in prison.

The House of Representatives was wise in striking "religion" from the form. We should show equal wisdom in striking "race" as well. As a minimum, the form should state clearly that giving one's "race" is not compulsory. The American Civil Liberties Union has endorsed my amendment to this effect.

There is another element in this part of the title which illustrates the conclusion I have reached that the person who drafted this bill never saw the inside of a courtroom and has no conception of how juries are selected. The original bill required that every person whose name was drawn had to appear personally before the clerk to fill out the form. In some States, this would mean a 2- or 3-day round trip for a 15-minute formality. In other States, it would mean thousands of persons swarming over the courthouse. The expense and hardship this would impose upon these citizens is incalculable. It ignores the 1960 Judicial Conference recommendation that "the accommodations of courthouses should be such that jurors are not required to wait in corridors and crowded anterooms to be called to service."

The bill has been amended to allow the clerk to mail the form to the prospective juror if he has special authorization. Absent this authorization, one district of North Carolina would have to

spend an additional $180,000 every 2 years to have every prospective juror make a personal appearance.

Faced with this cost and the inconvenience involved in a personal appearance, most judges will presumably ask the judicial council of their circuit to allow the use of the mails. I have suggested that this section merely be rewritten so that mail would be used unless it was found advantageous to require personal appearance.

The following two sections, 1866 and 1867, demonstrate the low regard of the drafters for the intelligence and honesty of the Federal judiciary. It requires that the jury commission determine qualifications for jury service "solely" upon the basis of the completed form. Thus if criminal records or the voter list or any other official document indicates that the juror has been convicted of a crime, or has not resided in the district for the required 1 year, or has been an inmate in a mental institution, or is not a citizen, the jury commission has no power to remove the juror. This is left to the judge, who it might be thought, would have other more important business to attend.

But even a Federal judge is not free to exercise his intelligence and determine the qualifications of the juror on the basis of all the evidence. He is restricted to "objective" evidence "obtained by the jury commission." So, if upon voir dire, or even earlier, it comes to his attention that the man has a criminal record, or is otherwise unqualified, he must determine first whether the evidence is "objective" and, second, whether it was "obtained by the jury commission."

I am at a loss to assist this judge in determining the meaning of "objective evidence." Is it "objective" as opposed to "subjective"? Is it material evidence as opposed to oral testimony or written papers? May he use the words of the juror himself or those of the attorneys? Websters Seventh New Collegiate Dictionary defines "objective" as:

1. a: of or relating to an object of action or feeling;

b: having the status of or constituting an object: as; (1): existing only in relation to a knowing subject or willing agent (2): existing independent of mind (3): belonging to the sensible world and being intersubjectively observable or verifiable esp. by scientific methods (4) *of a symptom of disease*: perceptible to persons other than an affected individual;

c: emphasizing or expressing the nature of reality as it is apart from personal reflections or feelings;

d: expressing or involving the use of facts without distortion by personal feelings or prejudices;

2.: derived from sense perception;

3.: belonging or relating to an object to be delineated.

Whatever objective evidence may be, the judge is restricted to it.

And what may he do with it? He may disqualify a juror who does not meet some, but not all of the stated requirements. He may not disqualify a person who is unqualified by reason of illiteracy. The bill allows him to use three of the four qualifications, but the Justice Department apparently has such little confidence in the integrity of our Federal judiciary that it is unwilling to allow a Federal judge to use his judgment as to whether a person is able "to read, write, speak, and understand the English language." Surely judges who are able to interpret complicated tax laws, administer our antitrust rules, and govern the course of a trial when the very life of a human being is at stake can be trusted to determine whether a person is able "to read, write, speak, and understand the English language."

There is some question in my mind whether the bill allows anyone to disqualify the clearly illiterate. Certainly if the judge cannot make the decision, why should the language be read as allowing the jury commission this power. If the commission can determine whether a person is literate, why cannot the judge be trusted with the same responsibility? I have introduced an amendment which would permit the judge to reject a voter who fails to meet any of the established qualifications—and this amendment permits the judge to base this decision on all the facts, just as he is allowed to do when making any other judgment.

I might add that by a quirk of misdrafting, the judge is not even permitted by this section to excuse persons who claim exemptions. The commission is permitted to do so, but if there is some question whether the juror is exempt under law, the judge is nowhere authorized to take upon himself the awesome responsibility of deciding the question for himself, not even upon "objective evidence obtained by the jury commission." This is just a product of sloppy draftsmanship and a simple amendment I have introduced will correct it.

The next extraordinary provision of this title is section 1867 which has to do with challenges to the composition of the jury. No longer need a litigant prove that the jury was selected discriminatorily or that it was selected in such a way that discrimination must be presumed. All that is now required is that he show a substantial failure to follow the procedures set forth. Prejudice is presumed to occur from such a failure.

Under the language of section 1867, the defendant or the party in a civil case may wait until he has examined the jurors, argued his challenges, and finally accepted the panel. Then, after the jury is empaneled and sworn, and the opening statements have been made, he has yet another chance. If he is overwhelmed by the prosecution's statement, or he suddenly finds that he is overmatched, section 1867 still allows him to make his challenge up until the time the first witness takes the stand.

Upon making the challenge, he is permitted—automatically—to call to the stand the jury commissioners and the clerk. He need show no good cause for interrupting their other duties. He may also, without reason or cause, present "other evidence." This would include the testimony of any other person remotely connected with jury selection, whether other names on the master wheel, or persons not selected from the registration lists. Then, if there is "evidence" of a failure, the party may produce all the records and papers of the jury commission.

The judge has no control over the parade of witnesses, records, papers, and "other evidence" that might be called in this hearing. Indeed, if he should attempt to control the length of the hearing in any manner, he is subject to the objection that the challenging attorney has yet to prove his case, and if we are to accept the interpretation of the Justice Department, the bill prevents the parties from doing any research prior to the moment of the challenge.

Many of the judges who have written have objected strongly to this uncontrolled and interminable hearing. As one wrote, any lawyer could use this section to disrupt completely the functioning of the court and the judge would be powerless to prevent it.

Now I have suggested some very simple amendments to prevent the collapse of the court system threatened under this section. First, I would make the latest time for challenging the jury the moment before they are empaneled and sworn. This is the traditional and logical time to make a challenge. The amendment was adopted by the subcommittee—it repairs the defect in the Justice Department version.

Second, I would require the challenger to show good cause before allowing him to present his parade of evidence. Contrary to the mistaken impression of the Justice Department as expressed in its supplementary memorandum to the subcommittee, section 1867(e) clearly allows the parties access to the records prior to the moment of challenge.

Since the parties can inspect and copy the papers and records of the jury commission in advance, and under the Federal rules can obtain depositions and affidavits from all persons with relevant information, there is no harm in requiring them to present their evidence in a brief to the judge when they move to strike the venire. Then if the papers supporting the motion raise some question of fact requiring evidence, the judge may permit whatever testimony and proof are required. This is the normal way legal motions are presented in Federal court. There is no reason to allow disruption of the trial by the long-winded fishing expedition authorized under the present language of the title.

We move now to another extraordinary bit of legislative draftsmanship in this classic instance of legal illiteracy. The first sentence of section 1867(d) provides that the procedures set forth in this section are to be the "exclusive means" for challenging an improperly constituted jury. The second sentence then provides that "nothing in this section shall preclude any person or the United States from pursuing any other remedy, civil or criminal" for challenging a jury. "The Lord giveth and the Lord taketh away," and so does the Justice Department.

Procedures are established in such a way as to eliminate any conceivable chance of a biased or improperly constituted jury. Yet the Justice Department provides a means for challenging

a jury which does not even require a showing of prejudice or discrimination. It only requires a showing of a failure to follow required procedures. Finally, just to make sure that they have not forgotten anything, the drafters allow any other means under the law to challenge the jury.

I shall not belabor this parade of horrors by pointing out all the other inanities in this title. I will not, for example, discuss the stanch conviction of the Justice Department that the use of a jury wheel is essential to the successful operation of title I, and that permitting the traditional jury box or a file would be destructive of the goals of its bill.

There is, however, one additional point I would like to make before moving to the special problems this bill would create for the courts of the District of Columbia.

The proponents of this bill and the Attorney General, have made much of the argument that because of the length of the hearings, and the few very technical amendments adopted by the Constitutional Rights Subcommittee, there is no need for additional study of the bill. The many amendments I have offered belie this assertion, because in my mind they are essential if this bad measure is to be made adminstratively tolerable.

I received a letter recently from Judge Walter Hoffman, of the eastern district of Virginia, sitting in Norfolk. Judge Hoffman raises a number of problems in the bill that I confess have never occurred to me. If at this late date, one judge is able to discern difficulties in this bill, this seems to me all the more reason for deferring the bill so that it can be examined in detail by the experts.

I read Judge Hoffman's letter in its entirety, if only to illustrate the highly technical nature of the problem the Attorney General attempts to deal with so offhandedly:

U.S. DISTRICT COURT,
EASTERN DISTRICT OF VIRGINIA,
*Norfolk, Va., September 2, 1966.*

Re H.R. 14765.

Hon. SAM J. ERVIN, Jr.,
*U.S. Senate,*
*Washington, D.C.*

Hon. NICHOLAS DEB. KATZENBACH,
*Attorney General of the United States, Department of Justice, Washington, D.C.*

GENTLEMEN: Responding to your recent communications relative to the jury phase of H.R. 14765, I desire only to make the following comments:

1. I feel that the expense to be incurred in connection with the proposed legislation will not justify the accomplishments, but it is further my view that this is a matter for legislative determination and not for a member of the judiciary to comment upon, other than as an individual.

2. Under § 1870 the word "clerk" is defined as "the clerk of the United States district court or any deputy clerk." Under § 1863 it is provided that the jury commissioner "shall not belong to the same political party as the clerk *serving* with him." This ambiguity under the existing statute has created much confusion. For example, until the retirement of my former clerk (a Democrat) on December 30, 1965, the Norfolk Division for the Eastern District of Virginia had a chief deputy who was a Republican. The jury commissioner was also a Republican. When the clerk retired on December 30, 1965, the judges selected a Republican to succeed him. The chief deputy likewise retired on the same day. The new clerk (Republican) immediately selected a chief deputy clerk who is a Democrat. Not knowing how to interpret the existing statute, I addressed a letter to the Administrative Office of the United States Courts. They did not know the answer. Upon the verbal suggestion of the Assistant Director of the Administrative Office, I have appointed *two* jury commissioners; one being a Republican and the other being a Democrat, the latter a retired Negro principal of a public high school. If the Republican clerk attends the drawing of the jury, the Democrat jury commissioner is with him. If the Democrat deputy clerk attends the drawing of the jury, the Republican jury commissioner is present. In short, I think that the statute should be clarified.

3. Under § 1869(b) it is provided that, during any two year period, no person shall be required to *serve* as a petit juror "for more than thirty calendar days, except when necessary to complete service in a particular case". The word "serve" is confusing. Does this mean that if a juror *reports for service,* but does not actually serve as a juror in any case on that day, he has actually "served"? Or does it imply that a juror must be seated as an active or alternate juror in a particular case? This should be clarified.

4. I am concerned about the practical operation of § 1866(c) relating to drawings from a "qualified juror wheel". Does this mean that jurors must be drawn for each particular case? Does it mean that jurors may be called for a particular day or days, without regard to what case they may be called upon to serve? For example, with one judge presiding in Norfolk at the present time, there are customarily three to four cases set for trial in order to provide a backlog of cases in the event of settlement.

With two judges presiding—and the Norfolk Division is due to have two judges if and when the newly authorized appointments are made—we will set from six to eight cases per day. Assuming these are all jury cases, would the jury commission be required to draw separate panels for each case, or would a drawing for a day or week certain be in compliance with the proposed law? By way of illustration, at the present time when two judges are sitting we call, in civil cases, approximately 31 jurors. We draw the jury in the first case from the first 18 jurors on the list. The six who are not selected to actually serve are then sent to the other courtroom to join the other 13 jurors. The second jury is then selected and the 7 who are not selected for actual service are then excused. We generally call one additional juror to provide for an emergency.

You can appreciate the difficulties which will be encountered if an individual jury must be selected for an individual case. With two judges presiding, and eight civil cases set for trial, we will be required to draw and summon a total of 144 jurors for one day's service, whereas only 24 of these jurors will actually serve. Many of these civil cases are settled shortly before trial, but the jurors must be summoned an appreciable period in advance of the trial and we will not know which cases will be settled. There is, of course, a corresponding increase in the numbers of jurors required for use in criminal cases where the defendant is entitled to ten challenges and the Government uses six strikes.

Section 1866(d) requires service in person or by registered or certified mail. We have never encountered any difficulty in contacting jurors by telephone but, I admit, if the juror has a good excuse for non-attendance on a particular day the deputy clerk will generally call that particular juror on a later day and proceed to the next name on the list.

It is my understanding that once a group of qualified jurors has been validly drawn to serve for a particular period of time—whether it be one month or six months—there is no constitutional right to another drawing for an individual case from the list of qualified jurors. A second drawing by lot is unnecessary. *Albizu* v. *United States,* 1 Cir., 88 F. (2d) 138, cert. den. 301 U.S. 707. The right to an impartial jury is one of *rejection,* not selection. *Tierney* v. *United States,* 4 Cir., 280 Fed. 322, cert. den. 259 U.S. 588; *United States* v. *Marchant,* 25 U.S. (12 Wheat.) 480, 481; *Philbrook* v. *United States,* 8 Cir., 117 F. (2d) 632, cert. den. 313 U.S. 577.

In summary, the drawing from the "qualified juror wheel" for individual cases will cause confusion, waste of time for jurors, and untold expense. As I interpret § 1866(c), it would require a separate drawing for each case. I trust that I am incorrect in this assumption.

5. Finally, the wisdom of § 1867(a) and (c) is without sound reasoning. In 19 years as a practicing attorney and 12 years as a federal judge, I have never seen a criminal case or a civil case in which a defendant cannot benefit by a continuance. An attorney representing a criminal defendant, or a defendant in a civil case, would not be "worth his salt" if he did not "move to stay the proceedings" on the day of trial for the purpose of challenging compliance with selection procedures in every case. He has nothing to lose and everything to gain. In the meantime, witnesses are in attendance from distant points. They may never be available again. Jurors are in attendance and must be excused for the day. Challenges involving the selection of the jury require many hours for hearing. The jury commissioner and clerk (or deputy clerk) who drew the jury may not be readily available. Since § 1867(c) prohibits the disclosure of the names of jurors except "during the pendency of the case"—and we do not know whether this means after suit is instituted or after the case is called for trial and prior to the introduction of evidence—it will result in an untold congestion of court dockets and will completely disrupt the judicial system. The attorney challenging compliance with selection procedures is certainly entitled to a reasonable time to prepare this phase of the case. Since the drawing from both the "master jury wheel" and the "qualified jury wheel" must be *public,* it seems to me that any defendant in a criminal case and any party in a civil case should be required to exercise any challenge a *minimum* of two weeks prior to trial to enable the Court to dispose of this matter.

CONCLUSION

There are many other defects in the proposed system which come to my mind, but time does not permit further comment. The Judicial Conference of the United States has a special Jury Committee to which this proposed legislation should be referred for study before final enactment.

Faithfully yours,

WALTER E. HOFFMAN,
*U.S. District Judge.*

I wish only to discuss one other matter before concluding. That has to do with the District of Columbia. I requested the chief judge of the district court, Judge McGuire, to comment on title I. He asked Judge Holtzoff to answer my letter. Judge Holtzoff is responsible for the operation of the jury system in the District of Columbia and was a member of the Judicial Conference Committee on the Operation of the Jury System whose report was adopted in 1960. Judge Holtzoff's reply demonstrated some of

the great problems inherent in title I. He also requested that the District of Columbia be exempted from title I. This position is supported in the city's press and I would like to read a recent editorial by the Washington Star. It reads:

[From the Washington (D.C.) Star, Aug. 25, 1966]

WASHINGTON JURORS

The jury section of the 1966 civil rights bill, whatever its merits or otherwise as it would apply to states in the South, makes no sense in the Nation's Capital.

The intent of this provision is to prevent discrimination against Negroes in selecting jurors, and numerous devices have been employed to exclude them from jury service in the South. But this is not the case in Washington. The names of prospective jurors in this city are taken at random from the city directory. There is no racial identification. And the proportion of Negro jurors actually serving is approximately equivalent to the percentage of Negroes in the city's population.

Under the provisions in the bill as passed by the House the names of jurors would have to be taken from voter registration lists. In Washington, this would automatically exclude a substantial number of jurors who live in the city but who vote elsewhere. It would also work a hardship because Washingtonians can vote only in presidential election years, whereas in the states the voters go to the polls, and register if required by state law, every other year.

The problem which this presents here may not be insuperable. But in the absence of any suggestion of discrimination, it is both pointless and a source of needless difficulty. When the Senate gets around to acting on this bill, an amendment exempting Washington from the juror provision should be high on the priority list.

There are compelling reasons for this request. The District Court for the District of Columbia is not an ordinary Federal court. It is the only one which operates both as a State court and as a Federal court. It is the court of general jurisdiction for the entire city. As such, it has more business of a local and a specialized nature than the other Federal courts, which are restricted to purely Federal questions and which leave ordinary legal business to State courts.

Further, the District of Columbia utilizes an unbiased, comprehensive source for jurors' names. The city directory lists the names of every resident in the District. Since names are chosen by lot from the list, there is no chance of discrimination of any kind.

The voter registration lists in the District come nowhere near covering all eligible residents of the city. Since the city votes only in presidential elections, registration only occurs every 4 years. Most people in the city are highly transient, and many retain their voting registration in their own home States. It has been estimated that less than 50 percent of the adult population of the city registers to vote. Clearly, use of the registration lists would be completely unsatisfactory. Under the language of the bill, the jury commission will be required to use this worthless list even though it presently has a perfect alternative. This just makes additional useless work for the busiest Federal court in the country.

Further, the city's courts send out between 2,000 and 3,000 questionnaires each month to get new jurors. This amounted to over 26,000 new names being sought last year. Almost 1,000 names are drawn from the qualified lists each month, or over 11,000 each year. In the district court alone, almost 8,000 persons were summoned, and over 3,000 jurors were accepted for jury duty last year. For 8 months of the year, 700 jurors each month were summoned.

Because of the excellent system now employed by the District Court for the District of Columbia, and because of its extraordinary need for jurors—it has been estimated that jury trial is waived in the District only 3 percent of the time as opposed to 85 percent for the national average—the city should not be saddled with the burdensome title I. There has been no criticism of the District's jury system from any quarter on the grounds of discrimination of any kind. The judges of the District court feel that title I would cause chaos in the court. I see no earthly reason why the District should be included in this bill. Based on these facts, I offered an amendment which would exempt the District from title I. It was defeated in the subcommittee by one vote. Should the bill be acted on despite my urgings, I hope my amendment will be judged on its own merits and accepted by the Senate.

Mr. President, I realize that this speech was lengthy. Its length was necessary, I believe, to inform the Senate and the Nation exactly what title I means to the existence of the right to trial by jury as we have known it for so long. Because all eyes have been drawn to other sections of this bill, I fear there may be a feeling in some parts that title I is relatively innocuous; that because it deals with a matter clearly within the power of Congress, it can be passed without any question of constitutional defects.

Since it does not strike so immediately at the rights of all Americans, as does the open occupancy title, there may be sentiment that title I can be allowed to go on the books with little harm to the Nation.

It is precisely because title I threatens to sneak through that I oppose it so strenuously. It has not been considered carefully by this Congress. Only by the extraordinary step of writing to each Federal chief judge and having clerks from all over the country come to testify at the subcommittee's request, did we discover its inequities. And their analysis, I repeat, demonstrates the great weaknesses and unforeseen evils hidden in the recesses of this bill.

We do not know the costs of this bill, either in dollars or in its effects on the proper administration of the courts. The clerks have testified that they are overburdened with work already, and greatly understaffed. The backlog in our heavily populated districts continually requires that we add more judges to the bench. This bill would inundate the courts with useless and duplicatory work, to an end as one judge has written, of obtaining not better juries but merely more numbers.

Even now, the administrative office is determining the additional costs that enactment of title I would impose upon the judiciary. Their study is not yet complete, but from the incomplete estimates they now have, it has been estimated that title I would add over $20 million to expenses of the Federal courts.

Careful study of the bill and recommendations by the proper legal bodies are essential. If this is allowed, the result will be, not politically motivated legislation hidden and largely ignored in a controversial civil rights bill, but legislation drafted with a true regard for the preservation of this age-old right to an impartial trial by a jury of one's peers. This cannot be accomplished if cloture is invoked today.

## ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. CARLSON in the chair). If the Senator from North Carolina will permit the Chair to make this statement, under the unanimous-consent agreement of September 12, the Senate will now proceed to the consideration of the conference report on H.R. 13712.

Mr. ERVIN. Mr. President, in view of this previous order of the Senate, I am unable to finish my speech at this time; and for this reason, I ask unanimous consent that I may be permitted to complete this speech on a later occasion, without having the completion of it counted as an additional speech on the motion to take up.

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

Mr. DIRKSEN. Mr. President, I should like to say to the Senator from North Carolina that I do not know how long it will take to finish the conference report. There possibly will be two amendments of some importance. My understanding is that 3 hours have been allocated to this matter, and tentatively we had set the vote on the cloture motion at roughly 6:30. That would preclude the use of the hour that is generally allowed under the rule, so that there might not actually be any time left.

Mr. ERVIN. That is the reason why I have asked unanimous consent that I may be allowed to complete this speech on a subsequent occasion.

Mr. DIRKSEN. That is right.

Mr. ERVIN. Without having my additional remarks counted as an additional speech.

The PRESIDING OFFICER (Mr. HARRIS in the chair). Is there objection to the request of the Senator from North Carolina? The Chair hears none, and it is so ordered.

## FAIR LABOR STANDARDS AMENDMENTS OF 1966—CONFERENCE REPORT

Mr. YARBOROUGH. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes. I ask unanimous

consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The assistant legislative clerk read the report.

(For conference report, see House proceedings of September 7, 1966, CONGRESSIONAL RECORD, pp. 21934–21940.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

The PRESIDING OFFICER. The Chair announces that under the unanimous-consent agreement, debate on the pending business will be limited to 3 hours, to be equally divided and controlled by the Senator from Texas [Mr. YARBOROUGH] and the minority leader [Mr. DIRKSEN].

Who yields time?

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DIRKSEN. The first discussion, I take it, will come on the conference report itself; and then, if by chance there is a request for a record vote on the conference report, that will be the first order of business.

The PRESIDING OFFICER. The Senator is correct.

Mr. DIRKSEN. If by chance the conference report should be rejected, it will then be in order, I think, to offer the amendments that are proposed and then will follow whatever votes will come.

Mr. President, I shall be unavoidably detained for a little while at a leadership meeting which begins at 3 o'clock; so I assign the time to my distinguished friend, the Senator from Vermont [Mr. PROUTY], who is a member of the committee, the time to be rationed as he sees fit.

Mr. YARBOROUGH. Before the distinguished minority leader leaves, I should state that it is our intention, when sufficient Senators are on the floor, to ask for a yea-and-nay vote on the adoption of the conference report.

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

The PRESIDING OFFICER. On whose time?

Mr. DIRKSEN. Mr. President, I ask unanimous consent that it not be charged to either side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. YARBOROUGH. Mr. President, I yield myself such time as I may need on the presentation of the conference report.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. YARBOROUGH. Mr. President, the Fair Labor Standards Act Amendments of 1966 as agreed to by the conferees of the Senate and House will raise the minimum wage to $1.60 per hour by February 1, 1968, for the 29.6 million presently covered workers, and will extend the protection of the act to over 8 million newly covered workers. I ask consent that there be printed at this point a table showing the numbers added to those now receiving the protections of the act.

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

*Estimated number of nonsupervisory employees added to coverage by H.R. 13712, as agreed to in conference (Data relate to cash wages plus an allowance for tips equal to 50 percent of the applicable minimum wage rate for "tipped occupations")*

| Industry | Number of employees | | |
|---|---|---|---|
| | Added to coverage | Earning less than $1 an hour | |
| | | Number | Percent |
| | *Thousands* | *Thousands* | |
| All nonsupervisory | 8,068 | 1,042 | 13 |
| Retail trade | 1,500 | 64 | 4 |
| Restaurants | 425 | 45 | 11 |
| Hotels and motels | 275 | 49 | 18 |
| Hospitals and related institutions | 1,471 | 237 | 16 |
| Miscellaneous services | 50 | 8 | 16 |
| Laundries | 505 | 111 | 22 |
| Agriculture | [1] 390 | 180 | 46 |
| Transit systems | 65 | | |
| Agricultural processing in area of production | 90 | 14 | 16 |
| Taxicabs | 100 | 14 | 14 |
| Logging | 37 | | |
| Cotton ginning | 34 | 5 | 15 |
| Construction | 581 | 27 | 3 |
| Federal Government | 685 | | |
| All other industries | [2] 1,860 | 298 | 16 |

[1] Average, May to October 1965.

[2] Includes nonsupervisory employees of public and private primary and secondary schools and schools of higher education.

NOTE.—Coverage estimates relate to scope of coverage in 1969; they do not reflect estimates of employees of employers providing contract services for the U.S. Government.

Mr. YARBOROUGH. H.R. 13712 as approved by the conference will provide a minimum wage for newly covered nonfarmworkers of $1 an hour beginning February 1, 1967. This minimum rate will be raised in four annual increases to $1.60 an hour beginning February 1, 1971.

For workers now covered by the act, the minimum wage will be raised from $1.25 to $1.40 an hour beginning February 1, 1967, and to $1.60 an hour 1 year later, on February 1, 1968.

Farmworkers, unless exempted, will be provided a minimum wage of $1 an hour, to be raised in two annual increases to $1.30 an hour beginning February 1, 1969.

In addition to raising the minimum wage the bill will extend protection of the Fair Labor Standards Act to more than 8 million employees. Included are workers in retailing, construction workers, laundry and drycleaning, transit, restaurant, and food service workers; employees engaged in agriculture, agricultural processing, and logging; employees of hotels, motels, hospitals, and institutions of higher, secondary, and elementary education. It would also incorporate basic wage policies for Federal wage board employees, certain employees of naval facilities whose wages are established to conform with those of private establishments in the vicinity where they work, and employees of nonappropriated fund instrumentalities. The wages of these Federal employees are now dependent in part on administrative discretion.

The legislation which we are considering today is a necessary step in remedying present inadequacies of the Fair Labor Standards Act. I strongly urge favorable consideration of this conference report, and I shall explain the provisions of the bill agreed on.

1. "ENTERPRISE" COVERAGE

Before the 1961 amendments to the act, coverage was limited to individual employees who were themselves engaged in commerce or in the production of goods for commerce. The 1961 amendments expanded coverage by adding protection for those employed in an "enterprise engaged in commerce or in the production of goods for commerce." However, the "enterprise" coverage was subject to an annual sales test of $1 million. Separate dollar tests for the construction industry—$350,000—and gasoline service establishments—$250,000—were provided.

Section 3(a) of the present bill would reduce the million-dollar test to $500,000 for 2 years, and then to $250,000. The House insisted that the $250,000 figure be retained. There would be no dollar tests for enterprises engaged in: First, laundering, cleaning, or repairing clothing or fabrics; second, construction; or third, the operation of hospitals and related institutions and institutions of education.

"Mom and Pop" stores—those establishments in which the only employees are the immediate family of the owner—continue to be excluded, and their sales are not to be used in determining the annual gross sales of any "enterprise."

2. TIPS

Section 3(m), defining the term "wage," is amended by adding to the section a provision that the wages paid by an employer to a "tipped employee" are to include tips. There is a limitation that tips cannot exceed 50 percent of the applicable minimum wage. The House accepted this figure as adopted by the Senate. A tipped employee is defined in section 3(t) as any employee engaged in an occupation in which he customarily and regularly receives more than $20 a month in tips.

3. REVISION OF EXEMPTIONS

A. HOTELS, MOTELS, RESTAURANTS, SEASONAL AMUSEMENT AND RECREATIONAL ESTABLISHMENTS, AND HOSPITALS AND RELATED INSTITUTIONS

The bill repeals the minimum wage and overtime exemptions now provided in sections 13(a)(2) (ii) and (iii) for hotels, motels, restaurants, and hospitals and related institutions, but restores the overtime exemption for hotels, motels, restaurants in a new section 13(b)(8).

As amended, the exemption in section 13(a)(2) would be limited to any retail or service establishment: First, having more than 50 percent of its annual dollar volume of sales of goods or services being made within the State wherein it is located; and second, not within an enterprise described in section 3(s), or having an annual dollar volume of sales which is less than $250,000.

The definition of a "retail or service establishment" in section 13(a)(2) remains unchanged. It is defined as an establishment 75 percent of whose annual dollar volume of sales of goods, services, or both is not for resale and is recognized as retail sales or services in the particular industry.

Expressly carved out from the exemption are establishments or employees engaged in laundering, cleaning, or repairing clothing or fabrics or establishments engaged "in the operation of" hospitals and related institutions, elementary and secondary schools, and institutions of higher education which are within the new "enterprise" coverage. The House insisted upon its inclusion of elementary and secondary schools, but the conferees spelled out that teachers and academic administrative employees would not be covered.

The minimum wage and overtime exemption contained in section 13(a)(20) for any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption is repealed, but the overtime exemption is retained in a new section 13(b)(18).

The minimum wage and overtime exemption in section 13(a)(2)(ii) for seasonal amusement and recreational establishments is limited to establishments which do not operate for more than 7 months annually, or which have average receipts for any 6 months of the year which do not exceed one-third of their average receipts for the remaining 6 months of the year.

B. LAUNDRY AND CLEANING ESTABLISHMENTS

The minimum wage and overtime exemption of any employee employed by any establishment engaged in laundering, cleaning, or fabrics (section 13(a)(3)) is eliminated.

C. AGRICULTURAL WORKERS

The bill covers only agricultural workers on the largest farms—the so-called agribusiness enterprises—which used 500 man-days of agricultural labor in any calendar quarter of the preceding year.

A "man-day" is defined in a new section 3(u) as meaning any day during which an employee performs agricultural labor for not less than 1 hour. This provision preserves the substance of the Aiken amendment adopted by the Senate.

Certain employees are to be excluded from both the general man-day count and from the coverage of the act. These employees are not included in determining whether an individual farm exceeds the 500 man-day criteria, and are not covered even though employed by a farm which does meet the criteria. The employees who are so excluded are:

(1) the parent, spouse, child, or other member of an agricultural employer's immediate family;

(2) an employee who (a) is employed as a hand harvest laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment, (b) commutes daily from his permanent residence to the farm on which he is so employed, and (c) has been employed in agriculture less than 13 weeks during the preceding calendar year; and

The bill also provides a minimum wage exemption for the children of migrant workers if such children are

(a) sixteen years of age or under and are employed as hand harvest laborors, (b) paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment, (c) on the same farm as their parents, and (d) paid the same piece rate as employees over age sixteen are paid on the same farm.

Although the employment of these children is exempt from the minimum wage requirements, such employment will be included in the 500 man-day count. The House conferees accepted this Senate provision. The conferees agreed to exempt from minimum wage coverage employees engaged in the range production of livestock, although such employees may be counted in the 500 man-day test for coverage.

In addition, the Senate provision exempting from overtime coverage certain employees engaged in sugar processing was retained in the bill, as was the Senate coverage under this act of sugar fieldworkers. The House insisted that the Senate recede from its exemption of certain farmhand cultivation workers, and the provision for averaging the piece-rate compensation paid farmworkers to determine minimum wage compliance.

The bill removes the present minimum wage exemption in section 13(a)(16) for agricultural employees employed in livestock auction operations.

Exemption from the overtime requirements of the act would be preserved for any employee employed, first, in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways for agricultural purposes, and, second, in connection with livestock auction operations—now sections 13(b)(12) and (13), respectively.

D. AGRICULTURAL HANDLING AND PROCESSING

The bill revises the exemptions relating to agricultural handling and processing contained in section 13(a) and section 7 of the act.

The exemptions in section 13(a) for the following employees have been replaced by new overtime exemptions in section 13(b): First, employees employed by country elevators; second, employees employed in the ginning of cotton; third, employees engaged in the transportation of fruit and vegetables or the transportation of farmworkers; and fourth, the sugar processing employees mentioned above.

In regard to the overtime exemptions in agriculture processing, the final result agreed on is almost identical to the Senate provisions, and markedly different from that provided by the House.

The present exemptions for agriculture processing employees are continued in new sections 7(c) and 7(d). Section 7(c) provides a 14-week overtime exemption for employees employed in a seasonal industry, limited to 10 hours a day and 50 hours a week.

The new section 7(d) provides a 14-week overtime exemption, limited to 10 hours a day and 48 hours a week, for employees in an enterprise which is in an industry found by the Secretary of Labor to be: First, engaged in handling, processing, and so forth, of perishable agricultural or horticultural commodities in their raw or natural state; and second, seasonal in nature or characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of such commodities from farms.

If an employer qualifies for an exemption under both section 7(c) and 7(d), as is generally true in the processing of agricultural products, each exemption is limited to 10 weeks, making 20 weeks the maximum aggregate period of exemption available to an employer under these sections.

E. SMALL NEWSPAPERS

Section 13(a)(8) of the act presently provides a minimum wage and overtime exemption for employees of certain small newspapers if the major part of the newspaper's circulation is within the county in which it is both printed and published, or contiguous counties. This section is amended so that the major part of the newspaper's circulation need only be in the county in which the newspaper is published or contiguous counties, as in both House and Senate bills.

F. TRANSPORTATION COMPANIES

The minimum wage and overtime exemption for employees of street, suburban or interurban electric railways, or local trolley or motor bus carriers in section 13(a)(9) is amended by repealing the present wage exemption and by providing an overtime exemption for operating employees. The Senate amendment which attempted to narrow the overtime exemption was rejected by the conferees.

The minimum wage and overtime exemption for employers in the taxicab business in section 13(a)(12) is narrowed to an overtime exemption for taxi drivers in section 13(b)(17).

G. LOGGING CREWS

The present minimum wage and overtime exemption for logging crews of 12 or less is amended to exempt crews of 8 or less beginning February 1, 1967, in accord with the House bill.

H. AUTOMOBILE, AIRCRAFT, AND FARM IMPLEMENT SALES ESTABLISHMENTS

Section 13(a)(19), exempting any employee of establishments engaged primarily in selling automobiles, trucks, or farm implements from the act's minimum wage and overtime requirements is repealed, and an overtime exemption is provided for salesmen, partsmen, and

mechanics employed by nonmanufacturing establishments engaged primarily in selling automobiles, trucks, trailers, farm implements, or aircraft to ultimate purchasers. The resulting language follows the House exemption—including the Senate floor amendment—but with a somewhat narrower scope.

I. GASOLINE SERVICE STATIONS

The overtime exemption for employees of gasoline service stations in section 13 (b) (8) is repealed.

J. PETROLEUM DISTRIBUTION EMPLOYEES

The unlimited overtime exemption of petroleum distribution employees of the type described in section 13(b) (10) is modified in an amendment of section 7 (b) (3) by requiring the payment of time and one-half the applicable minimum wage for hours worked in excess of 40 in any workweek. Also, if such employees work in excess of 12 hours in any workday or 56 hours in any workweek, they must be paid at a rate not less than one and one-half times their "regular" rates of pay.

X. RESIDENT APARTMENT CARETAKERS

The Senate amendment exempting certain resident apartment caretakers was rejected by the conferees.

4. INCREASE IN MINIMUM WAGE

A. PRESENTLY COVERED EMPLOYEES

Employees now covered by the Fair Labor Standards Act would be entitled to a minimum wage of not less than $1.40 an hour beginning February 1, 1967, and not less than $1.60 an hour beginning February 1, 1968.

B. AGRICULTURAL EMPLOYEES

The minimum wage for newly covered agricultural employees would not be less than $1 beginning February 1, 1967; $1.15 an hour beginning February 1, 1968; and $1.30 an hour beginning February 1, 1969.

C. NEWLY COVERED EMPLOYEES

Employees newly covered by the act, except agricultural employees, would be entitled to a minimum wage of not less than $1 an hour beginning February 1, 1967; and, through annual increases, to $1.15, $1.30, $1.45, to the $1.60 an hour over a 4-year-period. Thus by February 1, 1971, all nonagricultural employees subject to the act would be receiving a minimum wage of at least $1.60 an hour.

5. EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

A two-step increase in existing wage order rates would be provided in Puerto Rico and the Virgin Islands—12 percent the first year and 16 percent 1 year later. The review committee procedures provided in the 1961 amendments to the act are retained to assure that the increase in minimum wage orders will not adversely affect employment.

The minimum wages of employees in Puerto Rico and the Virgin Islands covered by the act for the first time would be established by special industry committees subject to the usual standard of reaching as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed for the employees involved.

The House provisions for workers under contract services for the Federal Government were adopted with a modification. The bill now reads:

"(e) (1) Notwithstanding the provisions of section 13 of this Act (except subsections (a) (1) and (f) thereof), every employer providing any contract services (other than linen supply services) under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (41 U.S.C. 351–357) or to whom subsection (a) (1) of this section is not applicable, wages at rates not less than the rates provided for in subsection (b) of this section.

"(2) Notwithstanding the provisions of section 13 of this Act (except subsections (a) (1) and (f) thereof) and the provisions of the Service Contract Act of 1965, every employer in an establishment providing linen supply services to the United States under a contract with the United States or any subcontract thereunder shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (b), except that if more than 50 per centum of the gross annual dollar volume of sales made or business done by such establishment is derived from providing such linen supply services under any such contracts or subcontracts, such employer shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (a) (1) of this section."

7. FEDERAL EMPLOYEES

The bill would incorporate in a new section 18(b) of the act the policy of paying minimum wages and overtime pay as required by the act to certain Federal wage board employees, employees of naval facilities whose wages are established to conform with those in the immediate vicinity, and to employees of nonappropriated fund instrumentalities of the Armed Forces. The provision contemplates the continuance of existing administrative procedures relating to the payment of these workers, but it removes from the realm of administrative discretion the ultimate minimum wage floor.

The minimum wage applicable to these Federal employees will be the section 6 (a) (1) rate—that is, the rate for presently covered workers—except that in the Canal Zone the minimum wage schedule for newly covered workers will apply. The Senate receded from its amendment providing a minimum wage for witnesses in Federal court.

8. APPLICATION OF MAXIMUM HOURS PROVISION

A. PRESENTLY AND NEWLY COVERED EMPLOYEES

The bill would retain the basic concept of time and one-half for hours worked in excess of 40 in a workweek. However, there are three-step adjustments to this standard in the case of nonfarm employees to be covered by the act by virtue of the bill. For these employees, the maximum workweek would be 44 hours during the year commencing February 1, 1967; 42 hours during the year beginning February 1, 1968; and 40 hours after February 1, 1969.

B. COMMISSION SALESMEN

The bill provides that in determining the proportion of compensation representing commissions for purposes of the overtime exemption in the present section 7(b) of the act, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions without regard to whether they exceed a draw or guarantee.

C. HOSPITAL EMPLOYEES

The bill permits hospitals to calculate their overtime on a biweekly rather than weekly basis, provided that employees are paid time and one-half their regular rates of pay for workdays in excess of 8 hours and for hours worked over 80 in a 14-day work period. This basis of computing overtime may be used only where the employees of the hospital have reached an understanding with their employer that the work period is to be a period of 14 consecutive days. The Senate amendment was adopted.

D. NURSING HOME EMPLOYEES

The bill contains a modified Senate amendment exempting nursing home employees from overtime coverage if their hours worked are less than 48 in a week; above 48 hours weekly, time and one-half would be due.

E. BOWLING ESTABLISHMENT EMPLOYEES

Similarly, a modified Senate amendment exempting bowling establishment employees from overtime coverage for hours under 48 worked in a week was adopted.

9. ENIWETOK AND KWAJALEIN ATOLLS AND JOHNSTON ISLAND

An amendment of section 13(f) of the act makes its provisions applicable to employees in Johnston Island and in the Eniwetok and Kwajalein Atolls.

10. HANDICAPPED WORKERS

At the present time section 14 of the act allows the Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, to permit the employment of handicapped workers at wages lower than the applicable minimum wage. In accordance with the Senate amendment, the bill adds two new subsections to section 14 relating to the employment of handicapped workers in sheltered workshops and the establishment of work activity centers.

The bill provides that handicapped workers employed in sheltered workshops must be paid wages commensurate with those paid nonhandicapped workers for essentially the same kind of work, but not less than 50 percent of the applicable minimum wage. However, special certificates may be issued by the Secretary for less than the minimum wage in proportion to the worker's productivity where the work is incidental to a training or evaluation program, or under exceptional circumstances where handicaps prevent an individual from engaging in competitive employment.

The conference bill specifies that this provision is to apply also to handicapped workers employed in agriculture.

The bill also authorizes the Secretary to establish special rates of compensation for handicapped workers employed in work activity centers. A "work activity center," as this term is used in the bill, means an establishment designed exclusively for workers whose physical

or mental handicap is so severe as to make their productive capacity inconsequential.

The Secretary is directed to conduct a study by July 1, 1967, of wage payments to employees of sheltered workshops and the feasibility of raising wage standards in such workshops.

11. SPECIAL WAGE RATES

The House provision providing for certification by the Secretary of Labor of full-time students for employment at less than minimum rates is retained, including provision for students employed in agriculture. The House receded from its provisions relating to management trainees and new employees.

12. CHILD LABOR IN AGRICULTURE

The bill contains the Senate amendment which would prohibit the employment of any child below the age of 16 in an occupation in agriculture found by the Secretary of Labor to be particularly hazardous.

13. STUDIES

The bill directs the Secretary of Labor to begin immediately a complete study of present practices dealing with overtime payments for work in excess of 40 hours per week and the extent to which such overtime work impedes the creation of new job opportunities. The Secretary is to report his findings and recommendations to the Congress by July 1, 1967.

In accordance with a Senate amendment the Secretary of Labor is directed to make a study of the wage rates paid to Federal employees in the Canal Zone and their effect on canal operation and report to Congress by July 1, 1968.

The Senate provisions relating to age discrimination were replaced by a substitute calling for the Secretary of Labor to submit specific recommendations on age discrimination in employment to Congress by January 1, 1967.

The Senate provision calling for a study and recommendation by the Secretary of Labor regarding emergency strike laws was not agreed to by the conferees.

14. OTHER

Section 601 of the bill amends the FLSA and the Portal Act—which contains the statute of limitations for FLSA—to provide a 3-year—rather than a 2-year—statute of limitations for causes of action arising out of a willful violation of this law. The Senate amendment regarding renegotiation of certain contracts was not agreed to.

In closing, the bill represents an effort to fulfill the promise of the original act and to reestablish its role as the major instrument of the Nation's fair labor standards policies. It reflects a reexamination of current needs to remove substandard working conditions and an effort to change the act to remedy those needs.

I strongly urge adoption of the conference report.

Mr. President, I urge the adoption of the conference report in full.

Mr. President, I ask unanimous consent that such members of the staff of the Committee on Labor and Public Welfare as are needed in connection with the conference report be permitted to be on the floor of the Senate.

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

Mr. PROUTY. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Vermont [Mr. PROUTY] is recognized for 10 minutes.

Mr. PROUTY. Mr. President, first I wish to quote from a letter that I sent to Senators last Monday:

> I voted to report the Minimum Wage bill in the Committee on Labor and Public Welfare. I voted for its passage in the Senate. I signed the Conference Report, but informed the conferees that inasmuch as they had deleted two of the most important provisions in the Senate-passed bill, I would seek to have these put back when the Report was called up in the Senate.

Mr. President, I might add that when an amendment was offered on the floor to the minimum wage bill to exempt all farmworkers from its coverage I voted against that amendment.

The letter continues:

> Therefore, when this action takes place next Wednesday I shall urge that:
>
> (1) The Conference Report be rejected
>
> (2) Another Conference be requested
>
> (3) The conferees be instructed with respect to the two provisions listed below
>
> The provisions in the Senate-passed bill which I wish to restore, and which will be voted on separately if the question of instructions to the conferees is pending are:
>
> (A) The piece-work provision for hand harvest workers
>
> (B) The exemption for small business enterprises having sales of less than $350,000 annually
>
> In no sense can a vote to reject the Conference Report be construed as a vote against the Minimum Wage bill, and this is particularly true if one voted for or was positioned in favor of H.R. 13712 when it passed the Senate. A vote to "reject" means nothing more than using the only parliamentary procedure available to maintain provisions in the Senate-passed bill which are so vital to the welfare of the farmers and small businessmen in the country.
>
> I hope I may have your support when the votes are taken.

Mr. President, I wish to make it unmistakably clear that I am not opposed to a minimum wage bill. I have supported it consistently, but in my judgment those of us who served as Senate conferees perhaps did not work as hard as we might have in support of the amendments adopted on the floor of the Senate, or in the subcommittee and the full Committee on Labor and Public Welfare.

Mr. President, I hope that the Senate will reject the conference report on H.R. 13712. I wish to emphasize that I have no desire to kill the minimum wage bill. There are many things in this legislation which I wholeheartedly support. However, I am convinced that the agricultural piece-rate provisions and those which provide for the exemption for small business enterprises which were in the bill which passed the Senate must be included in this legislation.

Due to the parliamentary situation which exists, it is necessary for the Senate to reject the conference report before further action can be taken. I wish to make it clear, however, that following rejection of the conference report, I shall immediately move to return the bill to conference with the House and to instruct the Senate conferees to insist upon the piece-rate provisions for agriculture and the $350,000 retail exemption for small business.

Mr. President, the payment of fair and equitable piece rates to hand harvest labor is an established custom in the fruit and vegetable segments of American agriculture. The average able-bodied and willing worker has always been able to make in excess of the proposed minimum wage and will have no difficulty in continuing to do so, even under the agricultural minimum wage of $1.30 per hour which becomes effective in 1969.

Recognizing this fact, I was successful in having such an amendment adopted in the Committee on Labor and Public Welfare by a vote of 10 to 6. This action was bipartisan, with 5 Democrats and 5 Republicans voting in favor of the amendment.

This amendment provided that where the average of the weekly aggregate earnings of all hand-harvest workers equals or exceeds the applicable minimum wage for agriculture, the minimum wage requirements of the Fair Labor Standard Act would be considered as having been met.

This provision was subsequently modified by the committee to provide that even where this formula was met, each individual harvest employee must be paid at least 75 percent of the minimum wage regardless of his productivity. This compromise was accepted because we believed that the majority party members of our committee who agreed to it would insist that it be retained in conference. Accordingly, no attempt was made to disturb this compromise when the minimum wage bill was considered on the floor of the Senate.

I am certain that the votes were here on the Senate floor to adopt our piece-rate proposal without the compromise. I am afraid that those of us in the committee who really believe in the merits of the agricultural piece rate were the victims of strategic planning. Taking the piece-rate proposal in committee prevented it from being raised as an issue in the Senate, and our acceptance of the compromise cleared the way to completely eliminate this section in the conference.

In hindsight, it is abundantly clear that we should have fought for the piece rate on the floor of the Senate, and retained the provision providing each individual with a floor of 75 percent as a means of accommodating conflicting points of view at the conference.

At the joint conference, the House conferees immediately took the position that the Senate should recede on this issue, and a majority of the Senate conferees agreed.

While the piece rate was not seriously discussed with the House conferees, it was taken up at some length at a caucus of the Senate conferees. The caucus de-

termined to recede on this issue as part of a package covering many other items. This package was summarily rejected by the House conferees, however, and the Senate conferees then voted to recede on the piece-rate provisions by a vote of 8 to 3.

Mr. President, much has been said about the piece rate permitting exploitation of farm labor. The historic practice of paying harvest labor in this manner has been compared to the piece-rate practices of many years ago which existed in some of our factories.

Mr. President, no valid comparison can be made of these wholly unrelated practices. In the industrial sweatshops, which unfortunately did exist at one time, a low piece rate was used to force high production if the employee was to earn a living wage. But the earnings of one employee in a factory were dependent upon the same high production from other employees engaged in an assembly line operation or a similar operation where the production of one employee was directly related to the production of other employees performing a different operation on the same product. To insure high profits at low piece rates, the motivation came from the employer to insure that all employees produced at as high a level as possible.

This is absolutely not true in agriculture. Paying piece rates to harvest workers enables an able-bodied and willing worker to earn much more than any minimum wage. The earnings of one worker are in no way dependent upon the production of any other worker, and the profit of the employer—the farmer, in this case—does not depend upon uniform high production by all employees. The motivation to produce in agricultural piece-rate employment, then, comes from the individual worker and not from the man who employs him.

These differences, Mr. President, were ably pointed out by the senior Senator from Texas in discussions before our committee.

No, Mr. President, paying agricultural harvest labor on a piece-rate basis most certainly does not permit exploitation of farm labor. During 1965, piece rates for the harvest of fruit ranged from 17 to 35 cents per unit, and averaged between 22 and 25 cents. Able-bodied harvest workers easily made between $2 and $3 an hour at these rates— sometimes more.

Much has also been said about this legislation covering only large commercial farms. I have reservations about this when I consider the fact that an applegrower who produces only 15,000 bushels of apples over a 6-week harvest season will exceed the 500-man-day test.

A farmer harvesting apples, who employs 45 harvest hands who work 6 days a week, will be charged with 540-man-days in a 2-week period—30 harvest hands for three 6-day weeks also equals 540 man-days.

Be that as it may, is there anyone in this Chamber today who does not believe that in time every farm in this country will become subject to this legislation? That being the case, should we not consider all our farmers and their practices in defining the application of this act on them at the time we are initially bringing agriculture under the minimum wage provisions?

In considering this legislation, we must consider the unique nature of agriculture and its special problems. The piece-rate provisions do this by striking a fair balance between minimum wage coverage for farmworkers and the effect of such coverage upon our farmers.

Mr. President, I want to make it clear that I voted against an amendment offered in the Senate which would have eliminated all farmworkers from minimum wage coverage. I want to emphasize that I favor and am not opposed to such coverage. However, my vote, as well as many of my colleagues I am sure, was predicated on the assumption that the piece-rate work system provided in the Senate bill would be retained.

Mr. President, the retention of piece-rate payments in agriculture is absolutely essential, and will in no way undermine the agricultural minimum wage provisions.

In the first place, all employees must earn at least 75 percent of the applicable minimum wage. In the second place, the piece rate must return an average hourly wage in excess of the required minimum wage. This will insure that piece rates are set at a level to reward the productive workers.

Unfortunately, the present farm wage statistics published by the Department of Agriculture do not include piece-rate workers. There is a big gap in statistical data. But it is well known that competent piece-rate workers earn a good bit more per hour or per day than workers employed on an hourly or daily basis. This is all to the good and will be continued under the piece-rate provisions of the Senate bill. This system of wage payments is uniquely suited to agriculture and should be retained.

Mr. President, the essential reason for a piece-rate system in agriculture is the seasonality of farm work. Most farmers, including those producing labor intensive crops, do not need to employ a large number of workers during most of the year. However, at harvesttime, they need substantial numbers for periods ranging upward from several weeks.

Because of the temporary nature of such work and the sharp rise in demand for labor at harvesttime, farmers normally employ practically anyone who is available. The agricultural work force consists of persons with widely varying qualifications. Farmers employ the aged and the infirm and the lazy as well as the young and the able-bodied and the willing worker.

Many of these workers set their own pace. Because of the wide range of qualifications, competence and characteristics that farmworkers bring to their jobs, farmers have a limited opportunity to establish work standards.

For many harvest workers, hours are irregular. They come to work at different times; take different and varying lunch and rest periods; and quit work at different times of the day. Unlike industry, agricultural work cannot be regulated by assembly line processes.

Because of these tremendous variables, farmers have used the piece rate method in determining the earnings of hand-harvest workers. This is generally preferred by both the farmer and his workers. It is equitable as between workers who have varying degrees of capability and productivity.

To impose on this system a guaranteed hourly minimum would have disruptive consequences. Without a piece-rate system, we will see the least capable of the farm work force disemployed. Farmers will accelerate the process of mechanization, which in the short run will create more unemployment. And, in many cases, the smaller farmers will be hard pressed to stay in business.

These effects will be moderated to some degree by the provisions of the Senate passed bill which I am attempting to retain.

For example, take the case of a farmer harvesting apples. During the week, his workers average $1.40 an hour at a time when the minimum wage is $1.30 an hour. The earnings of the individual workers range from $1 an hour to $2.20 an hour. Under the provisions of the Senate bill, the farmer would be in compliance because the average earnings exceed the minimum hourly wage required and because no worker is receiving less than 75 percent of the required $1.30 per hour. Accordingly, it would not be necessary for the farmer to pay any supplemental payments to the less productive workers.

I believe that this is a reasonable proposal. It requires the farmer to pay the minimum wage on an average basis, but will permit him to employ at least some of the less productive workers.

Mr. President, I am also convinced that if piece rates in agriculture are destroyed, we will be doing a disservice to the highly qualified farmworker. It is the piece-rate system that enables these workers to make high earnings. As I noted earlier, the available statistics are woefully inadequate, but it is common for workers on piece rates to earn more than employees paid on other bases.

If we establish a flat minimum hourly guarantee, I have no doubt that the productive worker will be penalized. Farmers will have little alternative but to pay the minimum rates we establish. If we make their wage bill on harvest piece rates prohibitive, they may well have no alternative but to pay all workers the same hourly rate regardless of productivity or effort. No room will remain for an incentive system of payment, and the earnings of a large majority of hand-harvest laborers will be substantially reduced.

Mr. President, if the conference report is adopted in its present form, and the farmers attempt to retain the agricultural piece rate, they will be faced with a dilemma at peak harvesttime.

On the one hand, a farmer may refuse to hire the marginal and nonproductive workers—those who cannot produce at the level of the minimum wage that must be paid. This will result in the nonproductive worker—regardless of the

reasons for his nonproductivity—becoming an unemployable, thereby increasing unemployment among those now permitted to work and earn according to their productive capacity.

In addition, the refusal of the farmer to hire nonproductive workers at peak harvest will mean in many, if not most, instances that the farmer will be unable to harvest his entire crop. It does not require an economist to tell us that decreased production will mean increased prices of the farm commodities for sale to the consumer.

On the other hand, the farmer may choose to hire nonproductive labor in order to prevent leaving a substantial part of his crop in the fields to rot. This, of course, would result in employment of nonproductive workers at hourly wage rates which exceed their productive capabilities. But the farmer's labor cost will also be increased and again, this increase can only be absorbed by raising the prices of farm commodities to the consumer.

It is perfectly clear, therefore, that if the agricultural piece-rate provisions are not restored to this bill, products will increase in price because of either, first, a smaller harvest, or second, increased labor costs. Either way, the effects will be detrimental to our economy in general, and to agriculture and agricultural employees in particular. Either way, the present inflationary trends will be drastically increased and our farmers, already in a poor position when compared to our other industries, will be placed in an even worse position.

Speaking of inflationary trends, Mr. President, even if the agricultural piece rate is retained, there is going to be a very real increase in the prices of fruits and vegetables to the consumer. If the piece rates are not retained, the increases in the prices of these foods may well get out of hand.

In this respect, I refer to the report of this bill from the Committee on Labor and Public Welfare submitted by the senior Senator from Texas. The following appears on pages 20 and 21:

> The cost of bringing seasonal agricultural wages up to $1.25 an hour is approximately equal to 1 cent per unit for most vegetables and fruits—per pound or per dozen or per head or whatever the ordinary unit may be. If retail prices go up more than that and if the increase is blamed on rising labor costs in the fields, the American housewife should demand a complete and immediate congressional investigation.

This report, then, states that a 1-percent-per-unit increase is justified and implies that such an increase is inconsequential—a 1-cent-per-unit increase for fruits and vegetables, and again I quote—"per pound or per dozen or per head or whatever the ordinary unit may be."

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

Mr. PROUTY. I yield myself 5 additional minutes.

Mr. President, I happened to glance at an advertisement of a major chainstore which appeared in last Thursday's edition of the Burlington, Vt., Free Press. At random, I noted the following prices: Cooking apples, 11 cents a pound; tomato catsup, 20 cents a bottle; canned peaches, 27 cents a can; baked beans, 25 cents a can; canned corn, 18 cents a can; fruit cocktail, 34 cents a can; California oranges, 18 cents a pound; and frozen corn, frozen spinach, and frozen peas, 25 cents a package. From the language of the Senate report, I assume that these are ordinary units.

Mr. President, do you know what the 1-cent-a-unit increase endorsed by the committee report would do to the prices of these fruits and vegetables?

It would raise the price of apples by almost 10 percent; the price of catsup by 5 percent; the baked beans by 4 percent; the fruit cocktail by almost 3 percent; the California oranges by more than 5 percent; and the frozen packages of peas or corn or spinach by 4 percent.

The formula used for the calculation of these increases was applied to the Senate bill containing the piece-rate provisions. Without the piece-rate provisions in the bill, this formula loses its validity. The greater additional increases in harvest costs to the farmer will have to be added on, and the 3- to 10-percent increases in fruit and vegetable prices which the committee indicates are warranted and can be absorbed by the economy become merely conservative estimates.

If the piece rates are not returned to this bill, perhaps the American housewife should ask for an investigation—an investigation of how individuals and groups unfamiliar with farming or its problems were able to get legislation enacted which completely disrupts established harvest practices of American agriculture and substantially increases what the housewife must take from her food budget to pay for fruits and vegetables.

Mr. YARBOROUGH. Mr. President, in considering what has been done with respect to farm labor under the bill, we should consider what was done in the House vis-a-vis the position of the House and the Senate.

There were some 10 changes in conference in the bill as it came from the Senate. In three of these, the House position prevailed. In seven of them, the Senate position prevailed.

The bill that comes from the conference gives less protection to agricultural workers than the original bill which came from the House.

In the first place, the House prevailed in these three instances. We passed the piecework averaging provision. It provides that if a farmworker gets paid on a piece-rate basis, such as by the bushel or the sack or the pound, the wages are averaged with respect to what all the people working on that farm make. It is averaged out and the minimum becomes the average wage. In that way we pull down the wage to make the minimum wage the average. That is not done by industry.

It means that the minimum wage becomes the average wage. That is not a fair labor standard to pay a man. In effect, it pulls the floor down and makes the minimum wage the average wage, provided it equals 75 percent of the minimum wage. So in effect, it fixes the wage at 75 cents rather than $1 an hour for agricultural workers.

The House would not recede. It was a major point of the four or five points. The House would not recede on that. The Senate conferees voted on it. The vote to recede was 8 to 3.

The next was the provision pertaining to logging crews. Under the House provision, a logging crew consisting of more than eight, had been included. Under the Senate version of the bill, if a logging crew exceeded six it was included. The House provided that if a crew, whether working in the pine forests of the South or the pulp mills of the North, consisted of more than eight, it would be included. The Senate receded, and the House position prevailed.

Mr. PROUTY. Mr. President, will the Senator yield me 1 minute on my time?

Mr. YARBOROUGH. I yield.

Mr. PROUTY. Is it not correct that the present law relating to logging crews is 12 and that the House reduced it to 8 and the Senate reduced it further?

Mr. YARBOROUGH. Certainly. I said the House position of eight prevailed and the Senate receded.

Next I come to the hand cultivation provision. That was the McGee amendment, and it was taken to conference. The House deleted it from the bill.

Those are the three points with respect to farm labor on which the House prevailed.

The Senate position prevailed in seven instances.

The first was with respect to workers engaged in range production of livestock.

The second was the Aiken amendment which was adopted on the floor and provided that if a person worked less than 1 hour a day, it would not be counted as 1 day. Senators will recall that under the provision of coverage for man-days, the criterion was how many days a man worked. The hours were not the criterion, but the days. There had to be 500 man-days in any one calendar quarter. A regular 3-month calendar period was covered. There was no limit. There was no limit on the hours worked in that day. If a man showed up and did not work because it rained, for example, that day would be counted as a day worked, and the next day he could work 17 hours, and it would still be 2 man-days of work.

The Aiken amendment provided—under the doctrine of de minimis non curat lex—that if a man, for example, worked 35 minutes, it did not count as a day, even though he might work 18 hours the next day. And workers often do that. When I was privileged to work during the wheat harvest in my younger days in Texas and Kansas, I had a team of horses that I had to feed, water, and groom, and get the wagon ready. There was hard pitching of wheat all day, and it was hard work. My job was to water and feed and groom the horses. My days were about 18-hour workdays.

So the Senate's position prevailed in that instance.

The third position in which the Senate prevailed was with respect to seasonal processing in canning plants. It is a

long and complicated operation, but it can briefly be called agricultural processing. That provision was in conference between the House and the Senate. The amendment which was adopted in the Senate committee was a bipartisan amendment. It made it easier for the canners, which means it was harder on labor. That amendment was accepted in conference by the House.

The fourth provision in which the Senate position prevailed had to do with overtime exemption for sugar processing employees. It was an amendment offered by the Senator from Louisiana [Mr. ELLENDER] which was accepted by me, taken to conference, and the Senate position prevailed in conference.

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

Mr. YARBOROUGH. I yield.

Mr. HOLLAND. That amendment was offered by the Senator from Louisiana and the two Senators from Florida.

Mr. YARBOROUGH. I thank the Senator from Florida. I am glad to have that additional information. It was an amendment by the Senator from Louisiana and the senior Senator and junior Senator from Florida.

We were told it was a vital amendment for sugar processing. The amendment was taken to conference, and the Senate position prevailed.

The fifth point was strenuously contested. It was a provision that was accepted in the Senate committee, was adopted by the Senate, and was in conference between the two Houses. It related to the exemption of certain hand-harvest laborers who are 16 years of age or under and are paid on a piece-rate basis.

Under the bill as it came from the House, this exemption is broader in its exclusion. It is a long and complicated provision, but it offers less protection to the farm laborer, and the House accepted that provision.

Another one that gives protection to child labor was the Senate amendment, adopted in committee, retained on the floor, and held in conference—which for the first time gives protection to child labor in agriculture—providing that employment of children under 16 in agriculture is prohibited when it is an extrahazardous occupation. Certain types of farm labor, due to the high incidence of injury and death, are extrahazardous occupations. That provision, which provides the first protection we have had for children in agriculture under any bill, was retained.

So in seven of these instances, the Senate provisions on farm labor prevailed, and in only three did the House provisions prevail. I think it ill behooves us here to say, where we have prevailed in 7 points, that because we did not prevail in 1 or 2 others, we ought to defeat the whole conference report, with 38 points in it, most of them bitterly contested. But I take it that is the point of the distinguished Senator's letter—that because he does not agree with 2 points out of 38, we ought to destroy the result of many weeks of work in the Committee on Labor and Public Welfare, 3 long days of debate on the floor of the Senate, and then 2 very full, long days in the conference committee with the House.

The able Senator from Vermont says, "Since I do not agree with two things that have been done, let us send the matter back and start all over again." To me that seems, Mr. President, to be a rather unreasonable position to take. But I wish to point out some facts.

I do not yield to the distinguished Senator one instant in his concern about the high cost of living. To the people who write me, phone me, and come to see me, that is a prime article of concern. But I say the Senator's fears are ill-founded as far as this minimum wage bill is concerned, particularly as it applies to the situation in Vermont. I refer him to the Crop Reporting Board compilation of farm labor wages of June 1966, showing what farm labor is paid in the United States. In the State of Vermont, the average wage, if the employee comes and works on a farm without room and board, for a day laborer, is $1.34 an hour. If room and board are included, his average wage, living on the farm, is $1.11 an hour. All of the New England States are above the minimum wage even after 2 years have elapsed, after we get up to the $1.30 an hour. Not a single State in New England is not already paying farm laborers more than $1.30 an hour right now.

This is the latest information we have on farm wages in the United States.

I point out that the average family farm is not affected at all. According to the 1959 census of agriculture, there were 3,708,000 farms in the United States; and, Mr. President, of those 3,708,000 farms, 3,160,000 farms do not have a single hired hand working for them—not 1, all the year long. The work is done by the farmer, his wife, his children, his parents, and such cousins and other relatives as may live with them. In this whole great American agricultural empire, with the greatest agricultural productivity in the world, of our total of 3,708,000 farms, on 3,160,000, the farmer is doing the work with his own brawn and the help of his wife and family.

With the bigwigs hiring many employees and paying them 50 cents an hour, in competition with that family farmer, they are the ones who are destroying the family farmer. This legislation is the bill of rights for the family farmer. He pleads, "Let them pay their employees a dollar, because I and my wife and children are having to compete with 50-cent labor," and that is killing the farmers. It is driving them off the land, denuding this land of the kind of family farmers who built America. I believe that this bill is one of the greatest bills for the family farmer we have had in this century.

On the rest of the farms, the other 500,000, some odd, after we take out the 3,160,000 with no hired hands outside the family, there are 303,000 of those which have only 1 hired hand on them; and there are 113,000 farms in the United States with only 2 hired hands. There are 70,000 farms with 3 to 4 hired hands. There are 38,000 farms with 5 to 9 farmhands, and only 24,000 in the entire United States with more than 10 farmhands.

Mr. President, the test, in this law, is that a farmer's employees come under the protection of the minimum wage law and the Fair Labor Standards Act, if, in one quarter of the year, more than 500 man-days of hired work are done on his farm. That averages out to seven full-time employees. The farmer must, in 1 quarter, have seven employees before he comes under the provisions of this Act, and before his employees come under the protection of the Act. How many farms would it cover? It covers only 1.6 percent of the farms of the United States; but it covers 39 percent of all farm workers, because the growth of the great corporate farms in this country is what is destroying the family farm.

How many farms are covered, in which States?

There are 6 States in which less than 100 farms are covered. Those States are Vermont, West Virginia, Rhode Island, New Hampshire, Alaska, and Delaware. In each of those 6 States, there are less than 100 farms which would be covered by this law.

In 19 other States, there are 100 to 500 farms covered. Less than 500 farms are covered in those 19 other States; and that makes a total of 25 States in the Union which have fewer than 500 farms covered. Those States, in which there are 100 to 500 farms only covered by this law, are Connecticut, Hawaii, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, Nevada, New Jersey, North Dakota, Ohio, Oklahoma, South Dakota, and Tennessee.

Those States have less than 500 farms which would be covered; and I believe, during the debate on this bill, the statement was made that there were 249 farms in Tennessee covered, and the distinguished senior Senator from Tennessee, in one of the ablest statements made in behalf of this bill, rose to his feet and said:

> I am one of the 249 farmers to be covered, but my employees are entitled to these wages, and I am for the bill, and willing to bring them under the provisions of the law.

There are only 15 States, Mr. President, in which there are 500 to 1,000 farms which would be covered. Those States are Alabama, Georgia, Idaho, Iowa, Louisiana, Michigan, Nebraska, New Mexico, New York, Oregon, Pennsylvania, South Carolina, Virginia, Washington, and Wisconsin.

There are only 8 States which have enough farmers to have more than 1,000 farms come under the protection of this act, and those 8 States are Arizona, Arkansas, California, Colorado, Florida, Mississippi, North Carolina, and Texas. My State has more farms in it than any other State; more family farms than any other State, and, next to California, probably more large farms. But a poll was taken in my State, and the results

were printed in all the large daily newspapers of the State. They took a poll of the people of Texas, because Texas and California have always been stated to be the two big farm States opposed to minimum wages for farm labor.

What did this poll say the people of Texas said?

Sixty-nine percent of the people of Texas said, "We want a minimum wage for farmworkers." Seventy-four percent of the 69 percent said it ought to be at least $1.25 and up to $1.50 an hour, or more. But 69 percent said it should be at least a dollar. So the people of my State would support this action of giving protection. Many persons who work for big farm establishments or companies now receive 45 or 50 cents an hour. They are competing with the little family farmer. It is not fair competition with the 3,600,000 family farmers.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the number of farms that are covered in each of the 50 States of the Union.

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

DISTRIBUTION, BY STATE, OF FARMS WHICH WOULD BE COVERED BY H.R. 13712—SEPTEMBER 14, 1966

There are approximately 3½ million farms in the United States. The bill would extend coverage to approximately 33,000 farms, less than one percent of the total.

A. States in which less than 100 farms would be covered: Alaska, Delaware, New Hampshire, Rhode Island, Vermont, West Virginia.

B. States in which 100–500 farms would be covered: Connecticut, Hawaii, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, Nevada, New Jersey, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee.

C. States in which 500–1,000 farms would be covered: Alabama, Georgia, Idaho, Iowa, Louisiana, Michigan, Nebraska, New Mexico, New York, Oregon, Pennsylvania, South Carolina, Virginia, Washington, Wisconsin.

D. States in which 1,000 or more farms would be covered: Arizona, Arkansas, California, Colorado, Florida, Mississippi, North Carolina, Texas.

Source: Special survey prepared for the Wage and Hour and Public Contracts Divisions by the Department of Agriculture.

Mr. YARBOROUGH. Mr. President, on piece-rate work, the method of computing wages will not be destroyed. Farmhands may pick a certain crop for half a day. If it begins to rain, they will plow the land, if they are full-time employees. The work of some employees in industry is measured on a piece-rate basis, but they are paid on an hourly basis.

The Department of Labor has issued rules concerning persons paid on a piece-rate basis for a part of a day and on an hourly rate for another part of the day, and has prescribed how to determine an hourly wage.

In many instances, hand-harvest laborers in a certain area are paid on a piece-rate basis, while others are paid on an hourly basis. In my own State of Texas, in the Lower Rio Grande Valley, melon pickers in Starr County have been paid on an hourly basis, while right over the county line, which is a geographical, imaginary line, in Hidalgo County, most melon pickers have been paid on a piece-rate basis, until recently. Now that the new melon-picking equipment has been introduced, the method of paying workers has been changed from a piece-rate to an hourly basis on most farms.

In the San Joaquin Valley of California, the hand pickers of asparagus are paid on a piece-rate basis or an hourly basis, depending on the practice of the farmer.

Agricultural workers in the Benton Harbor, Mich., area are paid on a piece-rate basis by some employers, and on an hourly basis by others. So whether a worker is paid on a piece-rate or on an hourly basis depends on the custom in a given county.

The minimum wage provision will not destroy nationwide or countywide practices throughout America, if workers are engaged on an hourly basis. The facts do not sustain the claim that there is much piecework. That is not to say that work cannot be measured on a piece-rate basis, if the employer has to pay a minimum wage, or that the piece-rate worker cannot continue to be paid by the bushel. If he picks twice as many bushels of apples or peaches as another worker, he will still receive twice as much pay as the other worker.

This is a minimum wage bill. It does not fix the wage; it sets a minimum. We ought to leave the piece rate for the employer who wants to use it. But a rate lower than the minimum wage will not afford fair competition for the more than 3 million family farmers whose wives, children, and cousins live on the farm and will not enable them to survive on their family farms.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. YARBOROUGH. Mr. President, how much time have I remaining?

Mr. STENNIS. Mr. President, will the Senator first yield to me very briefly?

Mr. YARBOROUGH. Mr. President, I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I am certain that the Senator believes his facts are all accurate as he has stated them in respect of the small family farms.

I speak only for the area with which I am and have been personally familiar for a long time.

If I understand the English language at all, the pending measure would drive local farm labor away from the cultivation of cotton, because the farmers would not be able to compete with the wages established by the bill when it comes into full operation. They will not be able to pay that price for farm labor, particularly for the type of labor that has a low yield of production in the picking of cotton and in the chopping of cotton when it is young in the stalk.

The passage of this measure will work against that type of farm laborer. Such laborers will not be used once this bill is in full operation.

I know that certain exemptions are included in the bill, and that the farmer must have so many employees before the act would apply. However, when a cotton plant opens, as the Senator knows, it must be picked quickly, or otherwise it will start to deteriorate. There is a period of intense need for labor at that time.

A great many of the colored citizens who live in those rural communities look forward to this kind of labor as a very fine source of income. It is labor that they can do.

Even a so-called small farmer with 20, 25, or 30 acres of cotton does not have a large enough farm to justify the purchase of a cotton picker. In many communities, there is not enough total acreage to justify the purchase by somebody of a picker. A cotton picker costs many thousands of dollars. Therefore, they do custom work.

The small farmer, if he wishes to remain in operation, is driven to the plan by which he must employ this local labor. Under the pending measure, in the course of time such a small farmer will be run out of business if he pays the price for labor contained in the pending measure.

As the Senator knows, we have not had the importation of any people from Mexico or any other foreign country to help pick cotton for a long time. That practice goes back to the old days, 20 years ago, almost before we had mechanical cottonpickers in the areas in which the land is so highly productive and the seasonal pressures are so great that they require the importation of farm labor. However, at the present time in what we call the hill section of the country conditions are just as I have described them.

I know enough about the situation from my own knowledge to know that it will not be possible for the small farmers to pay these wages. If someone from New Jersey wants to speak about the picking of fruit, I shall yield to him. But I do not like to have people who do not know the conditions in my part of the country say that I am mistaken and that they know more about my area than I do.

The pending bill has been very strongly supported by a good many city farmers, and I do not refer to the Senator from Texas. The city farmers are very positive concerning what the pending measure will do.

I think that is the tragedy of trying to legislate at the national level to the nth degree when it concerns small communities.

A great many of the people that I am talking about have been thrown out of employment in my State. Many of them are white people, and many of them are colored people. These people have been thrown out of their employment on the small farms.

The newspapers in an effort to seek publicity have gone there and gotten some of these people. They have brought them up here and let them camp on the park grounds in front of the White House.

There was a great deal of publicity about wages and everything else.

A great deal of that publicity was magnified. Some of it was unfortunately true. The surplus of this type of labor has already been thrown out of employment.

If this bill is passed, we will be adding fire to the flames and crushing the little people. A man who is producing 15 or 20 bales of cotton is certainly classed as a small farmer.

I refute the Senator's facts in that respect. I feel that anyone should be inclined to lend a helping hand to assist the little farmers to become adjusted so that the laborers can have a better chance to make a living.

I thank the Senator for yielding.

Mr. YARBOROUGH. Mr. President, I thank the Senator from Mississippi for his contribution. I have never purported to know as much about farming in Mississippi as does the Senator from Mississippi. The Senator comes from a rural community. He knows his State thoroughly.

Our report shows wages for all farm labor, not merely for the picking of cotton.

In my State, a person would make more money picking cotton than performing any other agricultural labor. I grew up in a cotton country.

The composite wage for farm labor in Mississippi is 67 cents an hour under this tabulation.

The composite wage per hour for farm labor in Oklahoma is $1.19.

The composite wage per hour for farm labor in Texas is 99 cents an hour.

It is $1.04 an hour in New Mexico.

It is $1.19 an hour in Arizona.

It is $1.54 an hour in California.

The distinguished Senator knows that cotton is not a perishable crop, as are peaches or plums.

Every bale of cotton, unless it be long staple, that is grown in one section of the country, is competing with a bale of cotton grown in another section of the country.

This cotton is ginned, baled, stored, and warehoused. It is then sent through a compress and compressed to a small size and tagged. It might go into Federal loans, and it might be years before it is marketed.

Cotton is not a perishable crop. It is a crop in which the cotton produced in one State competes with the cotton produced in another State.

I think these tabulations will illustrate that the State of Mississippi, like the State of Texas, has the same problem. They are 2 of the 9 States in which over 1,000 farmers would come under the law.

There are some very large farm operators in each of our States. However, in the State of Mississippi, as in the State of Texas, the overwhelming number of farmers are individual family farmers who do not hire a single farm laborer. They are individual farmers.

That is true in every State of the Union. There is not a State in which that is not true.

Only 1.6 percent of the farms in America would come under the coverage of this act.

If a farmer rents his land out, the man would not be covered by the act at all.

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

Mr. YARBOROUGH. I do not have much time, but I yield for a question.

Mr. STENNIS. Talking about the competition existing in cotton, that is true across the board. However, an emergency situation exists concerning when cotton will be picked.

A man must hire a good number of pickers to get the cotton out of the weather, as we say.

Mr. YARBOROUGH. The Senator is correct. If the man does not use over 500 man-days in a quarter he does not come under the new provisions. A farmer has to be a pretty big farmer to use over 500 man-days in getting his crop out. That requires a great deal of production.

Mr. President, a parliamentary inquiry. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has used 37 minutes.

Mr. YARBOROUGH. I yield to the Senator from New York.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. YARBOROUGH. Such time as the Senator requires.

The PRESIDING OFFICER. How much time does the Senator from New York require?

Mr. JAVITS. Ten minutes.

IN SUPPORT OF THE MINIMUM WAGE CONFERENCE REPORT

Mr. President, I rise to speak in support of this conference report. I am the ranking minority member of the Committee on Labor and Public Welfare and a conferee, and have worked constantly in respect of these hearings and in respect of reconciling our differences with the House, and I feel that this is a balanced bill and that it now deserves the support of the Senate.

I might say to my colleagues that, notwithstanding how I might have voted on any amendment, I will ask any member of our conference who wishes to advance an opinion on that score to contradict my statement that I fought for every Senate amendment with fidelity and sincerity. Whether I originally supported it or not was immaterial to me. I felt it my duty, as a conferee, to stand by what the Senate expected to do with respect to the bill.

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

Mr. JAVITS. I yield.

Mr. PROUTY. I want to explain, particularly with respect to the piecework proposal which we are now considering, that the Senator was opposed to it; but during the conference, or during a caucus among the conferees on the Senate side, he did suggest very strongly that we should make a real fight for it.

Mr. JAVITS. I am grateful to the Senator, my beloved colleague, with whom I work so closely. Nothing distresses me more about where we stand now than the fact that he and I should find ourselves on opposite sides of this question.

Mr. President, I think that perhaps the fact that we find ourselves on opposite sides of this question is rather constructive as to the dimensions of the question.

Let us understand that we are raising the minimum wage for 37 million Americans, 29 million of those whom were previously covered—29½ million, to be precise—and they are getting an increase in the minimum wage which is urgently demanded by the productivity of the country and the cost of living. Eight million are newly covered; and the agricultural workers concerned, who are part of that 8 million, are, in round figures, 400,000.

Let us not look at this matter through the wrong end of the telescope. I beg my colleagues to remember our parliamentary situation. We will have a vote in the Senate on accepting or rejecting this conference report. That may be the only vote, to vote yea or nay on that question. If the yeas carry, that will be the only time a Senator will have an opportunity to vote. So every Senator had better think very carefully—even if he is dissatisfied, as I am sure many Senators are, and as I am, also, with some parts of this bill—about being recorded as against a measure which is of indispensable importance to some 37 million Americans. To me, that is the most serious question any Senator has to answer in this matter. That always happens in a hotly contested conference.

No one could have argued more vigorously—and, indeed, more effectively, and with greater sincerity and conviction and with more facts—than Senator PROUTY, in respect of the provision which was his creation, this provision with respect to averaging out, on a piece-rate basis, of agricultural wages.

But even that, Mr. President, represented what we lawyers call de minimis, because at my own behest we had written into that very section, during its consideration in committee, a 75-percent provision, so that even those employees who would be subject to averaging would still have to get 75 percent of the minimum.

Mr. President, when one considers the matter from that point of view, one realizes how relatively small the issue is upon which we are asked to overturn this monumental labor—and it is a monumental labor. The conference was hotly contested. It took a long time. There were a great many issues, more than usual. It took us time to get to conference, and the matter was hanging by a hair, because many members of the conference group had divergent ideas on different aspects of the bill.

To boil it down, first, this may be the only vote. A Senator will vote it up or down, and if he is recorded as "No," no one will examine his vote with a microscope to see whether he had in mind 400,000 agricultural workers. He will be voting "No" on a measure affecting some 36 to 37 million Americans whose minimum wage is at stake here; and that "ain't hay" as we say at the curbstone.

Second, even in respect to the agricultural workers, it is a fairly limited target. For one, I have already described this piece-rate provision which has a 75-percent minimum built in. For another, agricultural workers are not getting the same minimum as industrial workers and service workers are getting. Agricultural workers are getting a maximum of $1.30, not $1.60, and it will take them 3 years to attain that.

It is a historic milestone that agriculture should be included. But is it not high time that agriculture is included? Is it not high time, because we have more and more an industrial concept on the farm, and because we are encouraging that concept in terms of machinery and amplitude of acreage, that this should come into being?

In addition, as Senator YARBOROUGH has said, this applies to an infinitesimal percentage of the farms, and only 40 percent of the workers. So we are approaching the matter very gently, very delicately, very slowly, and by no means imposing the responsibilities in the agricultural field that we are imposing in the industrial and service fields.

Beyond that, we were very solicitous and concerned about this matter, and I should like to point out a number of things that we did in the conference report, in respect to the agricultural field.

For one thing, Mr. President, we retained that provision of the Senate bill which is very important to agriculture, I should imagine—though I do not pose as an expert on it—which is in sections 203(a) and 103, which would permit people who are employed for less than 13 weeks in agriculture, and who commute from their homes to another farm—the so-called worker in the neighborhood, as it were—and who are hand-harvest laborers, paid on a piece-rate basis, to be exempted from coverage and excluded from the so-called man-day count in determining whether a particular farm is covered. That certainly should be helpful to the farmer.

In addition, we made very liberal provisions in respect to full-time students, without regard to age, with respect to employment of as much as 20 hours a week in agriculture, at reduced rates. Those rates go to about 85 percent of the minimum.

Finally, we dealt with handicapped workers who, because of physical handicap, were incapable of a great deal of productivity. In that situation, the rate would be below the minimum.

This is all noted at page 14 of the conference report in the other body, which is before us, which deals with the special provisions applicable to full-time students and the special provisions applicable to handicapped workers.

To cap the whole matter, we put up a terrific battle for agricultural processing workers. In that respect, I think we made an extraordinary settlement, and for this reason: The House had actually voted, on a rollcall, to reject the 20-week concept and to stick by the 14-week concept. Nonetheless, we won in conference the 20-week agricultural processing overtime exemption.

I respectfully submit, considering the dimensions of the problem, in terms of the number of workers employed, in terms of the fact that we are not raising them to the minimum of other types of workers, in terms of the latitude which has been given in respect of local workers—that is, commuting to a farm, working for 13 weeks a year—in respect of the handicapped, in respect of the full-time students, and in respect of the agricultural processing workers, that we have really knocked ourselves out to give recognition to the agricultural sphere.

Finally, Mr. President, it seems to me that the main argument which is made against the conference report is that the measure will result in a dearth of agricultural workers. That argument is not germane to this issue because we are going to be paying agricultural workers subject to the conference report more and not less than they are getting today. Therefore, logic would indicate that more workers would be available and not less workers.

As a matter of fact, farm prices—that is, farm prices received by the farmers—in terms of the cost of living which the consumer is now paying have materially increased. We are anxious to get more production.

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

Mr. JAVITS. Mr. President, may I have 5 additional minutes?

Mr. YARBOROUGH. Mr. President, I yield 5 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, it seems to me, from the economic point of view, that a far more logical argument could be made that a rise in scale for farmworkers will bring in more farmworkers rather than fewer.

The real argument made is that farmers will not pay the increase, even at the risk of letting the crops rot in the ground. Considering the price of food today, I most respectfully submit that this is certainly a doubtful thesis. As I see it, that is the net effect of this argument. We have a reasonable increase in the minimum wage, already outstripped by the cost of living in proportion to the productivity of the country.

In agriculture there are represented a modest segment of those affected by the increase in the minimum wage. We have gone through all kinds of pay raises, and we have given exemptions to handicapped workers, full-time students, local workers, and children.

They defeated in conference—and it broke my heart—any hope of doing anything more about child labor. We have no child labor provision in this bill, except the provision prohibiting "particularly hazardous" agricultural employment. So children can work. It seems to me under all the circumstances that to ask for a modest minimum of 30 cents an hour less than they get for industrial and service workers represents a pretty fair settlement that we got from the House.

I wish to close as I began. Senators should remember when they vote that this may be the only vote and that the question will be the interests of 36 million to 37 million American workers. I believe that the agricultural segment has been fairly and liberally treated in the bill when all of the features have been taken into consideration.

Mr. YARBOROUGH. Mr. President, I shall have a question that I wish to ask the distinguished Senator from New York [Mr. JAVITS], but first I do want to congratulate him for his faithful attendance at the 14 sessions that we had in the subcommittee, in the full Committee on Labor and Public Welfare, and in the conference. He was present and his attendance at all of the sessions was very helpful. He is a skilled negotiator. The distinguished Senator from New York worked faithfully and diligently on the bill and in connection with its many provisions.

I am glad that the Senator has brought up the point about rejecting the report. If the bill were to go back to conference it would not be on the point set out in the letter of the Senator from Vermont [Mr. PROUTY]. It would go back to conference on everything. We may end up with no minimum wage bill this year. As the Senator from New York said, the fate of 37,800,000 workers is involved in this bill.

I thank the Senator from New York for his diligent work on the floor of the Senate, in the full committee, and in the subcommittee. We always considered the impact on business. The House conferees told us in conference, "Over here we consider only labor; you consider many other things." We considered whether any business would be disadvantaged in comparison with other businesses. We tried to present a bill to help disadvantaged businesses.

I wish to ask this question of the distinguished senior Senator from New York. Considering the attitude of the House conferees, and hearing everything that was said, if the Senate rejects the conference report and throws it back into conference, does the Senator from New York see any hope of getting better terms in accordance with the wishes of the Senate than we have?

Mr. JAVITS. I have rarely seen House conferees as adamant as they were in this matter. I believe that everybody who participated observed that. There was a terrific battle to get any concessions at all. I agree with the Senator. I would pledge the Senate to go back under any instructions and do my utmost to get a bill, but I cannot see that we could get one considering the adamant position that we saw when we were in conference, even on features that I considered to be inconsequential.

I yield the floor.

Mr. RANDOLPH. Mr. President, the Senator from New York [Mr. JAVITS] and the Senator from Texas [Mr. YARBOROUGH] have covered essentially those points on which I desire to focus the attention of the Senate, in reference to the best result we could expect if this measure is returned to a conference with the House.

The Senator from New York very correctly pinpoints the 37-million-plus workers affected by the constructive passage of this measure. I would like to add to

the 37-million-plus, a figure which is perhaps even more important—the approximately 8 million men and women who, for the first time, will be covered by the provisions of the Fair Labor Standards Act, which originally was passed in the Congress of 1938, and has since been amended, and is now in the process of another reasonable and realistic amendment under consideration here, today, in the Senate.

To emphasize the concern and the commitment of the Senator from West Virginia in reference to any exemptions, the record will disclose that within the subcommittee, the committee, and within the conference, I argued vigorously for the point of the Senate legislation and particularly for certain advances that I had helped to write into the Senate version, which I believed were valid from the standpoint of agricultural and rural interest of the United States, as affected by wage and hour legislation. The final point, Mr. President, is that I believe that if this measure is returned to a Senate-House conference, we in the Senate can expect a lesser degree of cooperation in meeting the viewpoints of the Senate measure than we obtained in the conference which brought this report to our two bodies.

Mr. President, I say this without disparagement of the Representative. I say it only as a realistic appraisal of the situation in which we found ourselves as conferees from the Senate. I think this body will do an injury to the wage earners of America if we allow this legislation to be returned to a Senate-House conference.

Mr. President, I wish to say with all the strength of my being on this matter—that I am intensely interested that there be no inequities, that there be no violence done to any segment of our society. I think it is important that we move forward in this area of constructive consideration of reasonable wages, reasonable working hours, and reasonable working conditions for the men and women of this country. The Senate conferees have brought to this body a measure which does not satisfy me in full, nor does it satisfy the Senator from New York [Mr. JAVITS] completely, he said, or even the able Senator from Texas [Mr. YARBOROUGH], who handled this legislation with such astuteness.

I stress this point, that this is an important vote which we are going to take and it will be weighed by the people of this country generally on the proposition: Shall we deny 37 million people plus, shall we deny 8 million people who are covered for the first time under the advantages which have been incorporated into this legislation as it comes with the report.

I compliment the Senator from Texas and the Senator from New York, members of opposite political parties who, with others, sat and worked on this problem. Frankly, we worked diligently. We worked effectively for a measure which the Senate should approve.

Mr. JAVITS. I am grateful to my friend, the Senator from West Virginia, for his very eloquent remarks. He really has put the situation in focus. Without remotely denigrating the position of the Senator from Vermont—he has every right to contend for what he is contending—all of us have to understand what motivated the great majority of the conferees.

There are two propositions: First, the number of those who will be disadvantaged by rejection of the conference report and who will be placed in jeopardy—almost 38 million as compared with 400,000; second, the honest judgment of a number of conferees that if we go back we are likely to do worse than we have presently done, in terms of what the Senate wants—if we get anything at all—and we may end up in a fracas, considering the adamant position of the House and the delicate character of the situation with respect to our agricultural workers and their employees.

Mr. YARBOROUGH. Mr. President, again I thank the distinguished Senator from New York for his great contribution to this conference report. I point out that of the 38 points with which we went to conference, the Senate prevailed on 21, the House on 17. Because we prevailed on most of the points, the House was adamant, although they were a congenial bunch; but they were not particularly pleased when we prevailed and the lines were hardening at the end. Therefore, I do not think we would make further progress if we went back to conference with this problem.

Mr. MORSE. Mr. President, will the Senator from Texas yield?

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. YARBOROUGH. Mr. President, I yield such time as the Senator requires of the time remaining.

Mr. MORSE. Mr. President, I should like to have 10 minutes, and should like to be notified in 10 minutes time.

The PRESIDING OFFICER. The Senator will be notified.

Mr. MORSE. Mr. President, I rise to plead with the Senate to defeat the Prouty amendment and accept the conference report.

I supported the Prouty amendment in the Labor Committee. I did everything I could to save the Prouty amendment in committee without amendment. Then we went to conference, and I want the attention of the chairman of the conference and my friend, the Senator from West Virginia [Mr. RANDOLPH], and the other conferees now in the Chamber. It developed that the burden of handling the so-called farm amendments fell to me by assignment of the chairman of the Senate conferees.

I had offered most of the farm amendments in committee. We got into conference and came up against a group of House conferees, the overwhelming majority of whom were against the Morse farm amendments. That is what confronted us in conference. We found ourselves in the position where we had to consider packages of amendments. The House conferees put two or three amendments together and we had to vote for the package. This is a simple procedure in conference.

The last point I will make as to what was attempted on the part of the House conferees, after we had agreed to all of the packages, because they still were insisting that they try to water down the Morse farm amendments.

The Prouty amendment was in one of the packages, but also in the package was the processing amendment. We had just gotten through the other package saving the Morse amendment in regard to migrant children.

Thus, Mr. President, we came out of conference with most of the farm amendments intact. We did recede on the Prouty amendment.

I have been home to Oregon since the conference and have talked to farm groups there since the conference report. I have also talked to representatives of the fruit industry in my State since the conference report, and I made a speech to an agricultural audience in Oregon in regard to the problems which confront us in regard to the farm amendments.

In the course of that speech, I said:

> I should also point out that nothing in this measure extends overtime coverage to agriculture.
>
> Moreover, all food, lodging, transportation, and other services provided by the employer will be counted at value toward the $1 an hour minimum. This minimum will become $1 an hour next February and will rise to $1.15 in 1968 and $1.30 in 1969.
>
> The one major Senate amendment that was lost in conference with the House was that permitting piece-rate wages, other than the exempted people I have mentioned, to be averaged. Under the amendment offered by Senator PROUTY of Vermont, and for which I voted in Committee, employers would be permitted to average the wages paid to piece-rate workers, and if the average were above the minimum, the minimum wage requirement would be considered to have been met.
>
> Unfortunately, it was further amended, over my objection, to provide that in any case each employee in the average would have to receive at least 75% of the minimum. I thought this destroyed the whole advantage of averaging and I voted against it but it was adopted.

It was interesting to hear the forthright report of the Senator from New York [Mr. JAVITS] this afternoon when he pointed out that this was his amendment. He pointed out this afternoon that he offered the amendment, in effect, to water down the effect of the averaging amendment because it meant that at least 75 percent of the minimum would have to be paid irrespective of what the employee earned at piece rate.

I said in committee, as my colleagues know, that I could not vote for the Javits amendment for, when that 75 percent floor was added to the amendment, I considered that the Prouty amendment was pretty much emasculated. That has been my position.

In reporting to the agricultural group in my State, since adoption of the conference report, I gave them this report on what happened to the Prouty amendment in conference:

> In conference with the House, the whole Prouty piece-rate averaging amendment was strenuously opposed by the House conferees. They pointed out that local commuters were already excluded by the Green amendment and the children of migrants by my amendment. They proposed that in addition, the

physically handicapped also be excluded. The language of their amendment authorizes the Secretary of Labor to provide for the wage to be paid individuals whose earning or productive capacity is impaired by age or physical or mental deficiency or injury, except that it may not be less than half the minimum wage of $1 an hour in agriculture.

By the time the youngest, the oldest, and the handicapped are removed from coverage, the virtue of averaging seemed no longer to apply.

So I have supported this version which emerged from the committee of conference. In talking with agricultural leaders in my State, they said they thought we came out of the House with an exceptionally good conference report from the standpoint of agricultural interests. Then I talked to representatives of fruitgrowers. They came to see me as to what chance there was to recommit the conference report. I told them I would vote against it. I told them I was bound by something that the Senator from Vermont [Mr. PROUTY] was not bound by. The Senator from Vermont has made it clear that if his amendment was not included in the conference report, he would be free to do exactly as he is doing. I respect him for what he is doing as being forthright.

The fruit people of my State said we should not run any danger of losing the farm amendments we had saved in conference. They stressed also the processing amendment which I offered in committee. The committee members will remember I went up the hill and back down again three times before I was sustained. I would win one day. They would reverse me the next day.

That amendment provided for two 10-week periods of exemption from overtime. It called for 52 hours per week in the first 10 weeks before overtime would be paid, with 48 hours per week in the second 10-week period. That was one of the items in the package.

The House conferees finally agreed to it, if the 52-hour week was reduced to a 50-hour week. Part of the compromise was the recession made on the Prouty amendment. I told this to the fruit processors in my State. Their instructions to me were not to run any risk in going back to conference of losing the food processing amendment and other exceptions for farm labor that we have in the bill. The chief spokesman said he would rather have the processing amendment I have gotten in than three or four Prouty amendments. As far as the fruit growers are concerned, I would rather have the Prouty amendment. I am sorry we lost it.

I do not have to tell Senators what we have to do in working out conscionable compromises. With respect to getting the measure back to the House for a roll-call vote, one of their chief spokesmen said, "I am going to move to reconsider one of the amendments." He did not refer to one of the packages, but to one of the amendments. His plan was to reopen the processing amendment and seek to go back to the House with a 14-week period with overtime after 48 hours——

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

Mr. YARBOROUGH. I yield 2 more minutes to the Senator from Oregon.

Mr. MORSE. I opposed that. I made it clear that to reopen the food processing provision would jeopardize the entire bill. As an old horse trader, and I have been trading horses for 35 years, if I make a trade, I make good on the trade. The Senator from Missouri [Mr. SYMINGTON] who is in the Chamber, is a good horse trader. If I get a spavined horse, I keep it. I do not complain later that I did not see the spavin.

We came up with a conference report that favors the Senate in the agricultural field.

I agree with the Senator from New York [Mr. JAVITS], the Senator from West Virginia [Mr. RANDOLPH], and the Senator from Texas [Mr. YARBOROUGH]. If we go back to conference, everything is open again. We will have a hard time in conference, if we go back, saving the gains we have made in the agriculture amendments that we were able to sustain.

When we take into consideration the 75-percent figure that was added over my objection to the Prouty amendment, when we take into consideration the Green amendment that exempts local communities from any Fair Labor Standards Act provision, when we take into consideration my amendment which excludes the children of migrant workers, when we take into consideration the conference language to exclude aged and handicapped workers with respect to the minimum wage, when we take all these people out, there is not much left to the Prouty amendment. There is not enough left to justify the agricultural interests going back to conference.

I think we would risk most of our gains to go back to conference. We should adopt the conference report.

Mr. YARBOROUGH. Mr. President, I desire to thank the Senator from Oregon for his work on the subcommittee, the full committee, and in conference. We divided the work. We asked him to take over what we knew was one of the most difficult phases of the bill; namely, in the field of agricultural labor, with all the exceptions and provisions in it, because it was the first time that agricultural labor in the history of our country has been covered by a minimum wage act.

Franklin Delano Roosevelt 29 years ago recommended a minimum wage for all working in the factory and on the farm. To me the conference report is a good one. In this difficult field we had no more knowledgeable man than the Senator from Oregon. We had 10 differing agricultural positions. The Senate prevailed in seven. The House prevailed in three. When the piece-rate amendment was taken out, we gained the canning amendment. If the bill is sent back to conference, this provision will then be in conference.

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

Mr. YARBOROUGH. I yield myself 5 additional minutes.

The Senator from West Virginia who spoke on the conference report, was one of the most diligent and effective of our members. He spoke up for small business, and for the resort hotels that open up for only a few months of the year, and for agriculture and agricultural processing. He was interested in the canning industry and in the logging industry, and showed great knowledge and concern for their problems. He showed that he had a farsighted knowledge of the problems involved.

Mr. WILLIAMS of New Jersey. Mr. President, I would like to greatly applaud the work of the Senator from Texas for the most magnificent job which he did in managing this very difficult and controversial legislation both through this Chamber and through the Senate and House conference.

I believe that my views have previously been expressed by the Senator from Texas, the Senator from Oregon, and the Senator from West Virginia.

I however wish to state that this bill relates to farmworkers all the way from Homestead, Fla., to Burlington, Vt., from San Antonio, Tex., to Tacoma, Wash. We are in the process of establishing a most historical landmark, to include agricultural workers, within the framework of the Fair Labor Standards Act.

I wholeheartedly support the bill agreed to by the Senate-House conferees and strongly urge the Senate to adopt their report and to reject the motion made by the Senator from Vermont [Mr. PROUTY] to recommit H.R. 13712 to conference.

The average wage piece-rate provisions for minimum wage payments to farmworkers which were contained in H.R. 13712 as passed by the Senate were rejected by the House conferees and the Senate then wisely receded from its position. An average wage piece-rate system for minimum wage payments goes against the entire philosophy of the Fair Labor Standards Act. From its inception, the Fair Labor Standards Act has provided that every employer shall pay to each of his employees a minimum wage. The intent of this provision is to protect each worker with a basic floor under which his wages will not fall. Obviously, the average wage piece-rate provisions supported by Senator PROUTY do not meet this standard.

Piece-rate workers in agriculture are no different than piece-rate workers in other industries who have in the past been successfully covered by minimum wage legislation. The provisions of this bill in no way prevent or destroy an incentive piece-rate system—which I for one strongly support. This bill merely provides for a minimum wage guarantee below which wages shall not fall. Under this bill the piece-rate system may still be used as an incentive to reward the superior worker with higher wages than those set forth as the statutory minimum.

That the piece-rate standing alone has not provided adequate wages in agriculture is self-evident. The present system of payment for much of the harvest work is the piece-rate. Under this system the average farmworker has an annual income of less than $1,200 a year.

Thirty-four percent of our Nation's farmworkers were paid less than 75 cents an hour in 1965 while 50 percent earned less than $1 an hour. The average hourly earnings of farmworkers in the United States as of July 1, 1966, was $1.01 an hour—well below the poverty level.

Under the average wage piece-rate provisions supported by Senator PROUTY, our Nation's farmworkers would be guaranteed a wage of 75 cents an hour. This would produce farm wages of $30 a week or $1,560 a year. That is if the farmworker finds employment for 40 hours a week, 52 weeks a year. Wages such as these are intolerable and can be described as nothing less than a national disgrace.

Even under the modest provisions of the bill agreed to in conference, full-time farmworkers are guaranteed a minimum wage of only $40 a week in 1967, $46 a week in 1968, and $52 a week in 1969. However, our Nation's farmworkers are only employed on the average for less than 150 days a year. These provisions are nothing for us to be proud of but they are at least a modest start along the road to bringing the farmworker into economic parity with the rest of our Nation's labor force.

While the average wage piece-rate provisions of the Prouty amendment were deleted by the Senate-House conferees, this bill contains may exemptions from minimum wage coverage. For example, under sections 103 and 203 of H.R. 13712, workers engaged in hand-harvest labor and who are paid on a piece-rate basis in an occupation which has been and is customarily recognized as having been paid on a piece-rate basis in the region of employment are exempt from minimum wage coverage if:

First. They commute daily from their permanent residence and

Second. They have been employed in agriculture for less than 13 weeks during the preceding calendar year.

This exemption eliminates from minimum wage coverage most full-time students, casual and part-time workers as well as many of the elderly and infirm. These are workers who, we have been told, cannot for various reasons produce sufficiently to justify the payment of the guaranteed minimum wage set forth in this bill. Most full-time students work less than 13 weeks during the year and, as for the elderly and infirm, it is hard for me to believe that these citizens would work further away than the commuting distance from their homes or more than 13 weeks during the year.

Children under 16 who accompany their parents to the fields are also exempt from minimum wage coverage. The Senate conferees also agreed to allow students to be paid at a rate not less than 85 percent of the minimum wage.

In addition, the Senate-House conferees added to title V, section 14, a provision that workers may be employed in agriculture at wages not lower than 50 percent of the minimum where such workers' earnings or productive capacity have been impaired by age or by physical or mental deficiencies or by injury. This would allow for a subminimum wage payment to those workers who are not included under the other exemptive sections of the bill but who, because of various handicaps, are so limited in their productive capacity that they cannot justify being paid the statutory minimum wage.

For my part, I opposed many of these exemptive provisions feeling that they were without merit. However, the overriding responsibility at this juncture is to act reasonably, in a constructive spirit of compromise, and agree on a bill that can be sent to the Executive for signature. The bill presented by the conference report meets this objective and should not be rejected.

So it seems to me that we have reduced this to the lowest standard of a beginning for agriculture, and this is where we have to stand. As the Senator from Oregon so eloquently expressed it, if we should recommit on this issue, we could tear down the whole house we have built for 8 million American workers who have not heretofore been covered.

Mr. YARBOROUGH. Mr. President——

The PRESIDING OFFICER. How much time does the Senator from Texas yield himself?

Mr. YARBOROUGH. I yield myself 30 seconds.

I wish to thank also the distinguished Senator from New Jersey, who is a member of the Labor Subcommittee, the full Committee on Labor and Public Welfare, and, as a member of the conference, was there diligently working. We had a very diligent committee on both sides of the aisle; otherwise, we would not have had a quorum every session.

Mr. MORSE. Mr. President, will the Senator from Texas yield me 10 seconds?

Mr. YARBOROUGH. I yield to the Senator from Oregon.

Mr. MORSE. I wish to thank the Senator from New Jersey for his leadership on this bill. As he knows, he and I were on opposite sides on farm amendment after farm amendment, but he was always exceedingly fair and very cooperative in the conference. I also wish to say that he is one of the few men who have ever beaten me on a horse trade.

Mr. YARBOROUGH. Mr. President, the distinguished Senator from New Jersey is chairman of the Subcommittee on Migratory Labor. That subcommittee held extensive hearings; in fact, one of the volumes of hearings here consists of hearings which he held.

Mr. PROUTY. Mr. President, I yield 10 minutes to the distinguished Senator from Florida [Mr. HOLLAND].

Mr. HOLLAND. I thank the Senator from Vermont.

Mr. President, I never fuss with conferees. Having been a conferee so often myself, I know what a difficult task they have.

I wish I could agree with my friends the conferees on this particular measure in their evidently sincere feeling that they have done a good job for agriculture. But I cannot agree with them, and I hope they will pardon me if I state for the RECORD why I feel they have not shown the kindliness toward agriculture which I think they should have shown.

My State was especially interested in four provisions in the bill. The first and most important was this piece-rate amendment. I was glad to hear that it was sponsored in a bipartisan fashion by the Senator from Vermont and the Senator from Oregon in the committee. I heard this from both of them, and I am sure it is correct.

The matter was not questioned on the Senate floor. Nobody complained of it. It remained in the bill by the unanimous consent of the Senate. No voice was raised against it. I am sorry that our distinguished friends in the conference felt it was necessary to yield on that particular amendment, to which I shall orient some of my remarks.

The second provision in which we were immensely interested was a provision in the House bill which provided that fieldworkers for sugarcane and sugarbeets should not come within the provisions of this bill, because they were already included in the provisions of the Sugar Act, and were under the jurisdiction of the Department of Agriculture. It was very important that the Secretary of Agriculture, in doing the very big job that he has to do, in setting allotments, in prescribing how much can be produced and sold, in fixing the prices, and doing all the other things he does, should have the remaining jurisdiction, which Congress gave him many years ago, to fix and set the minimum wage for the fieldworkers in the sugarcane and sugarbeet industry.

I am afraid that we cannot blame on the House conferees the loss of this particular provision, because it was in the House bill, and I must say, looking at my good friends the Senate conferees, that they must have been the ones who demanded that it be removed from the bill; and I regret very sincerely that they saw fit to do so.

The third matter in which we were much interested was the processing amendment, on which we understand the Senator from Oregon took a leading part. I am glad we got as much out of that amendment—really two amendments—as we did; but I cannot leave the RECORD on the point as indicated up to now. Those amendments did not come back in the conference report in the same form as they were in the Senate bill, because the number of hours beyond which overtime began to run, in the second group of overtime weeks, was reduced in the conference report from the provisions of the Senate bill. I am sorry that the Senate conferees saw fit to yield in that regard.

The only amendment in which we were greatly interested which has come back in the conference report intact, as it was in the Senate bill, is that involving the processing plants for raw sugar production. We are grateful for that favor, which is not a small favor, and I wish to express my appreciation to the Senate conferees for having insisted on retention of that amendment.

But it should be very evident by this time that our gratitude must be somewhat limited, because our Senate conferees have not come back with anything like the degree of recognition of agriculture which we felt it was within their power to bring back.

The first thing I wish to do is reply briefly to the Senator from New York. He said we would have one vote, and that was the only vote, and that we might lose the bill if we refused to approve of the conference report.

I take it that he was not on the floor when the distinguished Senator from Vermont began his statement, because he made it very plain that if the conference report were rejected, he would follow immediately with a motion, and he stated the nature of that motion, requiring a further conference, and instructing our Senate conferees with reference to this piece-rate amendment and one other matter which will appear in his remarks.

So there is little substance to the position of the Senator from New York along this line; and I hope the Senator will not be unduly apprehensive, but will recognize the fact that if the conference report is rejected, all is not lost.

Mr. JAVITS. Mr. President, will the Senator yield at that point?

Mr. HOLLAND. Not at this point. I am on limited time. I will yield at the end of my time, and be very happy to do so. I hope the Senator will remind me when I come to the end of my time.

The second point to which I wish to reply is a statement made by the distinguished Senator from Texas. He is relying upon the statement of the Department of Agriculture as to the number of farms which are affected by this act.

Insofar as my own State is concerned, that statement could not be more unrealistic, because the small citrus groves and the small vegetable and berry-producing farms are, in greatest measure, supplied and serviced by employees of cooperative organizations. They do not make contracts with the people who pick their citrus fruit, but the cooperative or other agency which handles their fruit has a large organization, and it moves around from grove to grove, and is, of course, covered by this particular act. The fact is that instead of having something more than a thousand farms covered in my State, as shown by the statement of the Secretary of Agriculture, many thousands are covered in the citrus industry alone, wherein we have between 12,000 and 20,000 separate properties, most of them serviced in the way I have indicated, by central organizations, which do employ their picking crews on such a basis as to much more than satisfy the 500-man-day requirement in one quarter that is laid down by this bill.

Mr. President, proceeding to my prepared remarks, I support the motion made by the Senator from Vermont [Mr. PROUTY], to reject the conference report on H.R. 13712.

It has been and continues to be my strong conviction that agriculture is unique among American industries and that extending minimum wage coverage to agricultural farmworkers is a completely new concept, as they have never been covered heretofore under the Fair Labor Standards Act and, in fact, the President himself, who is a pretty canny farmer, in submitting his proposal to Congress, excluded farmworkers from his request. I know he had good reason for doing so, because he knows how greatly farm production is affected by matters out of the control of the producer, such as weather, the perishability of crops, the way they ripen, the competition in the market with other crops, the difficulty in having sufficient migrant labor available because at the time of harvest you have to have so much more labor than is needed during the growing time of the year, and many other differences, which make it completely impossible to compare the job of producing perishable crops out of the land with the matter of producing automobiles in a factory, or any other factory-made goods.

However, the committee saw fit to extend coverage to them in the bill reported to and passed by the Senate on August 26, notwithstanding the fact that the President did not request it.

The Senators will recall that during consideration of the bill I offered an amendment to eliminate agricultural employees from coverage. While my amendment was defeated by a vote of 37 to 51, I am certain that a number of my colleagues would have supported my amendment had not the piece-rate amendment been adopted by the committee and had they not believed the conferees would insist upon retaining the amendment in conference.

Mr. President, as I stated on the floor during the course of the debate on the bill, the inclusion of agricultural workers under the minimum wage law would do certain things.

First, it would force many smaller producers out of business. I am impressed by the facts cited here by the distinguished Senator from Mississippi. He is so right. The smaller producers who do not have the benefit of laborsaving machinery or of service by great cooperatives or others that have a large working force would be forced out of business.

The PRESIDING OFFICER (Mr. LAUSCHE in the chair). The time of the Senator has expired.

Mr. PROUTY. Mr. President, I yield an additional 10 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for an additional 10 minutes.

Mr. HOLLAND. Mr. President, many small producers will be forced out of business if this legislation is passed. They would either have to rely on the less efficient workers or pay wages in competition with the large organizations and large growers, and in either case many of them would be forced out of business.

Thousands of these small growers have been forced out of business every year by heavy competition.

Those Senators who wish to accelerate that rate of forcing small farmers out of business have a good chance to do so by approving the conference report.

Second, the passage of the pending measure would require some producers to shift to less labor-intensive crops at a possible reduction in income to them, and likely it would aggravate the surplus problems of certain other crops.

Passage of the bill would undermine incentive methods of payments which would require growers to pay some workers more than their productivity warrants and to increase their supervision.

It would add greatly to farmers' recordkeeping requirements.

It would increase competition from foreign-produced agricultural commodities.

Mr. President, that is a real problem which exists across the Mexican border and down in the Antilles, and those who do not see it as a problem do not realize what the facts are.

It would reduce employment opportunities, particularly for that portion of the work force most in need and least capable.

In other words, it will be the least efficient members of the work force who will be adversely affected by the passage of this legislation.

All this occurs at a time when our economy is characterized by reduced unemployment and high prices and when the Nation is on a war footing. This action will surely add to the inflationary fire the President is endeavoring, as indicated by his most recent message, to control.

Mr. President, a letter addressed to Congressman ROBERT L. LEGGETT from Secretary of Labor Wirtz, dated March 16, 1966, commenting on the piece-rate system which was an alternative wage structure used by the Florida citrus industry last year on an experimental basis is one that I believe well worth the Senate's time to read in part into the RECORD, for it points up the fact that the experiment was most successful and, as a matter of fact, more successful than the Department of Labor anticipated. It also states that industry records show an average wage of $1.97 an hour in the Florida citrus industry, and that the Department's own audits of citrus payrolls in Florida show a slightly higher figure.

Mr. President, I shall read excerpts from a letter from Secretary of Labor Wirtz to Representative ROBERT L. LEGGETT of California relating to the point which I mentioned.

They read:

> You and your California colleagues have expressed an interest in the alternative wage criteria used by the Florida Citrus industry this year on an experimental basis. Although we are still collecting information, I think we can make some tentative conclusions on the basis of our experience to date.
>
> The citrus industry submitted a well documented proposal to us suggesting a guaranteed average wage set at more than 30 percent above the previous established guaranteed minimum wage. The industry felt that such an arrangement would cause greater production, would be more equitable for all concerned and that the higher guaranteed

average would induce more Americans to work in the crop than the previous guaranteed minimum.

The experiment has generally proved successful, more so than we had anticipated. Industry records show an average wage of $1.97 an hour; our own audits of citrus payrolls show a slightly higher figure. The indications are that less than 10 percent of the workers at any one time made less than the old minimum of $1.15 an hour. With the exception of one grower's payment of an additional $47 to his crew in one pay period, there has been no need for make-up pay.

One of the most heartening aspects of this experiment was its success in attracting domestic farm workers; more of them than ever before moved into the citrus groves.

In summary the Florida experiment included these elements: a guaranteed average, set at a figure about 30 percent higher than the previously established minimum; substantially higher piece rates; and vigorous interstate recruiting. To date we think it has been very successful.

Mr. President, in spite of the voluntary program initiated in Florida which has shown such success and under which, incidentally, it was shown that approximately 10 percent of the workers who could not make up to the minimum wage would be the ones who would be cut off by the passage of the pending bill, and in spite of that fact that the great success of this experiment has been shown very clearly, the conferees apparently have decided that this is something that is not worth having in the bill, that it is not worthwhile any longer to increase the incentive to try to get people to work hard so that they could make more money, than they would otherwise be able to make, which is essentially what has been done under the program worked out so successfully by the citrus industry of Florida last year.

Mr. President, I believe this letter very strongly indicates that the coverage of agricultural employees—employees in an industry of high seasonal labor requirements not susceptible to the type of work regulations that control assembly line production in industry—will not benefit from coverage under the legislation. They would benefit if the piece-rate provision were included in the legislation.

For my stated reasons I hope that the Senate will reject the conference report, appoint new conferees, request a new conference with the House and instruct the conferees to retain the piece-rate provision of the bill.

Mr. President, I thank the distinguished Senator from Vermont for yielding to me.

Mr. PROUTY. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 1 minute.

Mr. PROUTY. Mr. President, I am very grateful to the distinguished Senator from Florida for his very able statement in support of his position and mine.

I was particularly pleased to hear the letter from the Secretary of Labor. That was most helpful.

Mr. President, I yield 10 minutes to the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 10 minutes.

Mr. FANNIN. Mr. President, I commend the distinguished junior Senator from Vermont and express my unqualified support for his pending motion.

I pay tribute to the senior Senator from Florida for his statement in support of the pending motion and for the succinctness with which he described the position that the people from the agricultural community are in.

It was gratifying to see the senior Senator from Oregon so adamantly holding out for the Senate provisions. I commend him for that in the conference committee.

I was very proud that the senior Senator from New York also was steadfast in his determination to retain the Senate provisions.

The Senator from Vermont and the Senator from Florida have thoroughly outlined the necessity for sending the bill back to conference.

I want to underscore one of the points which he made. This is not a question of voting down a conference report to defeat the amendments to the Fair Labor Standards Act. It is simply a procedure to instruct the Senate conferees to insist on the piece-rate work provision for agriculture which the Senate Committees on Labor and Public Welfare approved by a vote of 10 to 6 and which was not challenged on the Senate floor during our consideration of the minimum wage bill.

Mr. President, one of the most active participants in the Senate committee sessions was the Senator from California. His State is the largest producer of agricultural commodities in the United States. He has perhaps been one of the most untiring persons in endeavoring to bring about fair and equitable wage payments for employees in the State of California and throughout the United States. I commend him for this.

The Senator from California strongly supports the pending motion, because he knows firsthand great hardships that will result if this conference report is accepted. His approach is not one of opposition to benefits for the workers. He is concerned for those workers who are not in a position to earn the minimum wage established under this bill, perhaps because of some particular handicap that they may have.

The Senator from California made recommendations to us all, and I want to thank him for his activity.

Mr. President, piece-rate methods of compensation have been used extensively and traditionally in large segments of American agriculture. They are used in the harvesting of citrus, lettuce, melons, and onions, for example, in Arizona. The reason for the widespread employment of the piece-rate system in agriculture is well understood by Senators familiar with agriculture. My distinguished colleague from Vermont has explained its importance extremely well.

Basically, this method of wage payment exists because of the seasonality of the farm work force. The number of workers required by any individual farmer varies widely depending on his season. Because of the sharp upsurge in demand for labor at harvest, farmers have traditionally hired virtually every available worker.

These workers bring to the job different qualifications. Many are diligent and highly motivated. Others, for whatever reason, cannot produce an amount necessary to justify a flat minimum wage of a dollar or more per hour. It is for this reason that farmers pay on a piece rate. It is fair as between workers and enables the farmer to reward incentive.

Now, Mr. President, piece rates are utilized primarily in those crops with intensive labor requirements—primarily, fruits and vegetables. Much has been said about the vast increase in productivity of American agriculture. But these productivity gains have taken place in those crops which are mechanized to a large extent and which use other labor-saving devices. Such crops as cotton, wheat, and other grains are examples. On the other hand, crops such as citrus, strawberries, asparagus, and most deciduous fruits have shown relatively small productivity gains, and it is these which require large amounts of hand labor. It is these which require the piece-rate method averaging of compensation. If we fail to provide it, we will be in the paradoxical position of applying a minimum wage to those areas of agriculture where productivity increases are the smallest.

Let us keep constantly in mind that the farmer's opportunity for supervision and work regulation is very limited.

There is no assembly line in agriculture to control the speed and volume of work of individual employees. It is through the piece-rate wage system that farmers are able to exercise some control over the productivity of their work force.

I would also question whether the establishment of a flat agricultural minimum would not be a long step in destroying the many perquisites provided by farmers to large numbers of their employees. Unless these perquisites are properly evaluated and counted toward minimum wage coverage, they may not be provided. The reason is that farmers can afford to provide them where their labor costs are related directly to productivity. If labor costs rise and, in many cases, exceed productivity, those farmers requiring large amounts of hand labor will have to do all possible to reduce other costs. The elimination of perquisites might be one way to cut back on total costs.

Mr. Fred Burrows, executive vice president of the International Apple Association, in his statement before the Labor Subcommittee last year, said:

In our industry harvest labor is nearly always paid on an incentive piece rate basis. The rate this past season ranged from 15 to 35 cents per loose bushel field crate, and for the industry averaged in excess of a conservatively estimated 20 cents per bushel. (In 1964 the apple industry's harvest labor bill alone exceeded $26 million.)

Our industry records are replete with data showing that qualified, willing workers readily earn in excess of $1.75 to $2 per hour on a piecework basis. Therefore, payment of the present minimum wage to these sincere

and able workers might not present a problem.

However, and unfortunately, the supply of qualified harvest labor is far below our industry's needs. By necessity the entire horticultural industry, to get the crops harvested, must employ many people considered by many as unemployable—the unskilled, the young, the aged, the lazy, and so forth—who are either not capable or are unwilling to work hard enough to earn even the present minimum wage on a fair and equitable piece rate basis.

To be forced to pay a guaranteed minimum wage to these workers would only result in their not being employed at all, thus further swelling our welfare and delinquency rolls. In many instances, the grower would be forced out of business. Hence the carton manufacturer, the transportation agency, the chemical firm, the retailer and so forth, would all necessarily retrench seriously and adversely affecting our overall economy. Conceivably, prices to consumers could increase materially.

Further, experience has taught us that a guaranteed minimum wage for harvest and packing labor simply does not work. A guaranteed wage usually results in the borderline, or semiefficient worker slowing down and the inefficient becoming even more inefficient. Considering our shortage of qualified and willing harvest labor, the effect of a minimum wage for agricultural labor—especially harvest labor—on the growers' existence and on consumer prices is readily apparent.

Finally Mr. Lester Heringer, president, California-Arizona Farm Labor Association told the subcommittee at its recent hearing in California:

Experience has shown us that the establishment of minimums or floors under piece rates serve to destroy the incentive and to reduce the productivity, therefore, we have a basic distaste for arbitrary minimums. To substantiate this contention we would refer you to statistical data available in the California Disability Insurance Reports on Farm Labor. A comprehensive analysis of this report indicates that a minimum wage under the piece rate incentive method of payment does little or nothing to enhance the earnings of the qualified agricultural worker, but it does render uneconomical the continued employment of the nonproductive, less than qualified, casual farmworkers upon whom agriculture must depend to augment its regular work force.

Mr. President, I urge the Senate to accept the motion of the Senator from Vermont and restore the agricultural piece-rate system which is so important to both workers and farmers.

Mr. MORSE. Mr. President, will the Senator from Texas yield?

Mr. YARBOROUGH. I yield.

Mr. MORSE. I want to clarify the parliamentary situation that confronts us.

The Senate, irrespective of what the Senator from Vermont would have us do when we got back to conference, cannot bind the House conferees. If we take this report back to conference, we take the whole report back to conference.

Senators should not forget that except for the Prouty amendment, all the farm amendments were adopted in what I called a series of packages. They put these farm amendments in a package, and then we would compromise in regard to those amendments. Even with respect to the Prouty amendment, it was replaced with language that excluded most of the low-production workers that would be most affected by averaging.

We came out, in my judgment, much better than we had any hope of coming out when we went in on the farm amendments. In my judgment if the Prouty amendment is taken back to conference some of the major farm amendments will be lost and we will come out with a much weaker farm bill from the standpoint of the farm amendments than we have now.

Mr. President, I wish to stress this point. I have already talked to farm leaders in my State. Earlier this afternoon I quoted them in a speech that I made. When they saw what was involved in these compromises their instructions to me were to stand where we are.

Mr. President, I have one last point that I wish to make. Some Senators were not here when I discussed the Prouty amendment. I was for the Prouty amendment in committee, and that was for averaging of piece-rate earnings. Then, there was introduced by the Senator from New York [Mr. JAVITS]—he has discussed it—the proposal that the employer would still have to pay each pieceworker at least 75 percent of the minimum. I voted against it in committee. I thought it was a mistake, and greatly watered down the Prouty amendment. The Prouty amendment is further watered down by the Green amendment, which I strongly supported, which exempts these young people working on farms within commuting distance of home. It was watered down further to exempt the children of migrant workers. We watered it down much further in the conference report because the Secretary of Labor is given authority in regard to the handicapped, mentally deficient, aged, and full-time students, to have them exempted from coverage altogether. I do not believe there is much left in the Prouty amendment with those exemptions.

The Senator from Vermont [Mr. PROUTY] is not bound, as are the Senator from New York [Mr. JAVITS], the Senator from Texas [Mr. YARBOROUGH], the Senator from West Virginia [Mr. RANDOLPH], and the Senator from Oregon by commitments that we made in conference. He made it clear that he was not going to be bound, but we are and we did the best trading that we could.

In my judgment, I can tell the Senate what the House conferees will do. They will say, "We are not going to accept any restrictions." If we go back to conference, every farm amendment in the report will be in jeopardy. As conferees on the part of the Senate in connection with handling the farm amendments, we will be in an impossible position.

One of the leaders of the House conferees proposed at the end of the conference to reopen one of the farm amendments. That was my amendment on food processing. I told you what the farm people think of it. They think it is the most important amendment. I speak only for what they said in my State.

I told the conferees, "You can reconsider when you want; when you consider package agreements we should recognize we have entered into a gentlemen's understanding and we are bound to agree to or reopen the whole package." That is when I made the comment, and we laughed, that when I make a horse trade and I get a spavined horse, I keep him. I do not say, "Take him back."

Mr. President, I think we made a good trade on the farm amendments. I think that the conferees deserve to have this conference report accepted.

I wish to say to those who are interested in the farm amendments that if you want the best protection for the farms of the country you will accept the conference report and not run the risk of losing the amendments that we obtained in conference.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. MORSE. I yield.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. KENNEDY of New York in the chair). The Senator will state it.

Mr. JAVITS. Mr. President, if the conference report is rejected and the conferees are instructed by the Senate, are the conferees bound by those instructions so that if they bring back some other report it would be subject to a point of order?

The PRESIDING OFFICER. It would not be subject to a point of order.

Mr. JAVITS. I thank the Chair.

Mr. PROUTY. Mr. President, I yield 3 minutes to the Senator from Colorado [Mr. DOMINICK].

Mr. DOMINICK. Mr. President, I shall not take long, but I wish to bring out several points.

It will be remembered that last year we had a series of discussions in the Senate concerning the need for additional import of labor. There was substantial criticism of the Secretary of Labor for mishandling this type program. We had a vote, I believe, on this matter, which I believe was introduced by the Senator from Florida [Mr. HOLLAND]. There was a vote as to whether we were going to take this program from the hands of the Secretary of Labor and put it into the hands of the Secretary of Agriculture. We lost it. It was our motion. I supported that, and I am happy that I did.

What have we done this time? We took the sugarbeet workers, whose wages have been under the Secretary of Agriculture since the institution of the Sugar Act, and put them into the hands of the Secretary of Labor, who mishandled the entire program from the beginning. I cannot understand why the conference did that.

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

Mr. DOMINICK. I yield.

Mr. HOLLAND. Under existing law, is it not fact that the Secretary of Agriculture is charged with a large number of duties relative to sugarcane and sugarbeet production, and has fixation of wages for fieldworkers?

Mr. DOMINICK. The Senator is correct.

Mr. HOLLAND. He has to fix the allotments of the amounts that can be picked, and the prices that can be charged. He has to determine every feature of a complex program set up by law and under which he has been functioning successfully. At least in my State the wage he has proposed and required for fieldworkers is above the average wage as stated in the bill.

I see no justification for spoiling the broth by putting two cooks into that kitchen.

Mr. DOMINICK. The Senator is correct, and I appreciate his thought in that connection. That is one problem of the conference report.

Another matter that I wish to point out is in connection with the 37 million people affected by the bill and the 8 million people coming in, which was mentioned by the Senator from West Virginia [Mr. RANDOLPH].

I believe that the Senator will admit, along with the rest of us, that most of these people are already getting wages higher under the law—most of them are getting higher wages under the bill.

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

Mr. PROUTY. Mr. President, I yield 2 minutes to the Senator from Colorado.

Mr. DOMINICK. They will not be affected. This is not a matter of life and death, or a matter of taking a worker out of peonage. We are trying to get rules and regulations that are fair to all people. I do not believe that the conference report does it.

The third thing that I wish to point out is that we have a limitation in this bill on the amount of business that must be conducted in gross sales before a business is subject to the act. What institutions are not within that limitation? The first are hospitals. A hospital does not have to do $250,000 to be subject. If a hospital has two patients, they are subject to the act. We are subjecting them to a level below what the level for a small business would be. When there is a charitable organization of this kind trying to help people, we should not have that kind of situation. I brought this situation up in the Senate hearing. We brought it up in the committee hearings and we got nowhere. We do not have any situation, except on overtime, to help them. We do help them on overtime.

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

Mr. DOMINICK. The Senator will have to acquire time elsewhere. I have 1 minute left.

Mr. President, the other matter which I wish to comment on is that I want to assure the Senator from Oregon that I have implicit confidence in his ability and the ability of our other conferees backed by Senate vote to bring back from a conference a better conference report than we have here.

I thank the Senator.

Mr. YARBOROUGH. Mr. President, I ask for the yeas and nays on the conference report.

The yeas and nays were ordered.

Mr. RANDOLPH. Mr. President, will the Senator yield me 1 minute?

Mr. YARBOROUGH. I yield 1 minute to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I request the attention of the Senator from Colorado [Mr. DOMINICK], the very able legislator who made reference to remarks I made earlier this afternoon as to the coverage of those more than 8 million persons who will be brought under the Fair Labor Standards Act for the first time. I must not permit this discussion to fail to underscore what I believe to be a very important advance in new coverage and improvements in the law for almost 38 million workers.

The Senator will remember that I joined with him in the matter of the hospital amendment which was defeated in committee. We were often in agreement.

But, Mr. President, I have tried to think in terms of equitable adjustments and exemptions, and I stand here today and assert that within the conference we cannot have both those provisions which were in the Senate bill, and those in the House bill. There must be an accommodation to the conferees from both bodies. Your Senate conferees were diligent but we were not so unyielding as to stymie a measure so important in its overall provisions as to strengthen the overall economy of our Republic.

Mr. PROUTY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 5 minutes.

Mr. PROUTY. Mr. President, thus far, nothing has been said about the exemption for small business enterprises which I intend to propose in the event the conference report is rejected. Two amendments on this question were introduced when the bill was being considered in the Senate. The first was to maintain the exemption at the level of $500,000. This lost in a tie vote. The second amendment which I offered reduced the figure to $350,000 in 1969. This carried by a vote of 41 to 38. Significantly, 8 Senators who did not vote were positioned in favor of the amendment, making a total of 49 Senators on record as favoring the exemption for small businesses on their gross sales of less than $350,000 annually.

At present, businesses with sales of less than $1 million are exempt. Under both the House and Senate bills, the figure is reduced to $500,000 in 1967. Under the House bill and as agreed to by the conference, it is proposed to lower it still further, to $250,000 in 1969. Under the Senate bill, it would be lowered to $350,000 in 1969, and that is the provision I desire to retain. The next step, of course, will be to eliminate it entirely. In sum, Mr. President, a firm with sales of $349,000 a year appears to be doing a substantial volume of business. Some people seem to feel that that is the case.

I have just been handed a publication called Dun's Review of Modern Industry, which lists 25 or 26 various lines of businesses, and shows the median ratio of profit to net sales on profits. As I glance at it, the lowest—and I am talking now in terms of the median ratio—is 1.09. That means that a business doing $349,000 in annual sales would show a profit of $3,807. The highest median ratio was 2.34 percent and that would show a profit of $8,190.

Thus, we are not talking about big business. We are talking about very small business, which is faced with all sorts of problems and handicaps at the present time.

It seems to me that there is a tendency on the part of too many people to try to put small business out of business, or to turn it completely over to the large monopolistic concerns. It may come to that. Once a few, big concerns control and dominate business in this country, then we will have a monopoly, unless the Federal Government takes business over—and that is certainly something we do not want.

Small business has grown into large business—that is, men with initiative and courage, willing to run risks, have made a profit for themselves, yes; but they have put an awful lot of people to work. Many of the people employed in small business today are young people without any training, without any skills, and could not get a job if the wage level were increased beyond their productive capacity. Many elderly, retired people are able to supplement their meager incomes, even though they are not physically, perhaps, able to do a full day's work. We will be putting a lot of people who can earn something out of work, unless we take care of these small business problems.

Therefore, I plead with Members of the Senate to reject the conference report. It will go back to conference. I shall make the motion, if no one else does. I will suggest that instructions be given to the conferees to insist on provisions in the Senate-passed bill, provisions which the Senate passed and wants and, in my judgment, should insist remain in the bill.

Mr. President, the House conferees are not tougher than the Senate conferees. I am sure that we can stand up and insist on what we think should be contained in the bill.

We were in a hurry to get this conference completed before the Labor Day recess. Everyone was tired and wanted to get away. Had we had more time, perhaps the Senate would have been able to maintain some of the things in the bill which I think should have remained.

I am sure that if we go back to conference again, we will get what we want.

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

Mr. PROUTY. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 2 additional minutes.

Mr. PROUTY. The idea that rejection of the conference report will mean the end of the minimum wage bill, in my judgment, is just not accurate. I have zealously supported minimum wage bills ever since I have been a Member of Congress. I have supported several amendments which perhaps, in retrospect, I

should not have; but, basically, I am in favor of what is in this bill. I am sure that when we return to conference, we will come back with a better bill which will be acceptable to both the House and Senate.

Mr. DIRKSEN. Mr. President, will the Senator from Vermont yield to me?

Mr. PROUTY. Mr. President, I yield 5 minutes to the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN].

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. DIRKSEN. Mr. President, when the instant bill was before the Senate some time ago, I authored a proposal to make $500,000 the enterprise cutoff, so that businesses doing an annual gross sales of less than $500,000 would be exempt from the provisions of the bill.

When I did so, there was in my mind an earlier experience when I was still a member of the Committee on Labor and Public Welfare. On that occasion, we handled the first minimum wage bill, and I recall the then distinguished Secretary of Labor, Arthur Goldberg, who came before the committee to testify. In the course of the colloquy, I said to him, "I cannot understand how you can hang a dollar sign on the interstate commerce clause of the Constitution and make it stand up logically because, if that is the case, then why not lower the "ante" and make it not $750,000 but let us make it $100,000?"

The very distinguished former Representative from Wisconsin, Mr. Andrew Biemiller, who attends the Honorable George Meany of the AFL–CIO on occasion, when he appears before committees, said, "Well, that is what we tried to get the House to do, to make it $100,000 in the first instance."

I said, "Andy, why don't you make it $50,000?"

He said, "If I had it to do, we would do so."

The distinguished chairman of the Committee on Labor and Public Welfare sitting here remembers it so well, because he was there. Of course, that is what they would do, but then we can also make it zero. As a consequence, every business, large and small, will come within the purview of the commerce clause and will become fair game for that elaborate and sprawling bureaucracy which knows so well, in its expert way, how to command reports and put burdens upon little business.

Mr. President, I dread the thought, because I remember at the end of a college year a long, long time ago, I realized that I had to do something to earn some money during the summer; so I rented a little building and went into the ice cream business. I made enough money to pay my matriculation fees and buy books for the next session of college; otherwise, I would not have been able to go back. But I thought, what a burden it would be if I had to sit down and burn the midnight oil beyond the time when I was pushing hamburgers and selling iced drinks, in order to get a stake and purchase some books. But that is exactly what is happening today to little business. Pretty soon, they will be fairly crying for survival.

The other day, someone sent me a copy of Oliver Goldsmith's "Deserted Village." I drenched myself in that wonderful literature with much satisfaction, as I reread what once had been assigned to me in school a long, long time ago. I am sure we all remember the couplet:

Princes and lords may flourish, or may fade;
A breath can make them, as a breath has made;
But a bold peasantry, their country's pride,
When once destroy'd, can never be supplied.

Mr. President, we do not use the word "peasantry" in our country.

We think in terms of the small enterpriser. He is the counterpart of what they might refer to as the peasantry in England. So the bold little enterpriser, our country's pride, when once destroyed can never be supplied.

And who is going to destroy him? His own Government, by the burdens the Government imposes by making him stay up at night to render reports, and by making him listen to an inspector who comes in and says, "Look, my friend; you are in violation of the law. The law says that if your gross is $250,000, you must comply with all of its provisions."

I do not know how many items are in the bill that went before the conference. I see now that the conferees had to deal with 32 different items. Think of that. When we discussed this measure before, I showed the Senate the regulations. They extended all the way across the Chamber. They comprised hundreds and hundreds of pages. It would baffle a Philadelphia lawyer to understand what is in the bill and what must be complied with.

So now the burden is going to come down further and further. If a man's gross income is $250,000, he will be "in." He will have to comply. If he cannot comply, do Senators know what will happen? The Government will move in on him. He will be given his choice of paying double damages or of complying with the law.

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

Mr. DIRKSEN. Surely; I yield to my good friend from the State of Brotherly Love. He must share our views and our compassion.

Mr. CLARK. The Senator was kind and generous enough a moment ago to refer to a Philadelphia lawyer.

Mr. DIRKSEN. A Philadelphia lawyer?

Mr. CLARK. I heard the Senator say "a Philadelphia lawyer."

Mr. DIRKSEN. Oh, I was thinking of all lawyers.

Mr. CLARK. I think the record will show that the Senator from Illinois made special reference to the ability of a Philadelphia lawyer. I merely want the record to show that there are two Philadelphia lawyers in this body, one a Republican and one a Democrat, who do not share the view of the Senator from Illinois with respect to the bill.

Mr. DIRKSEN. That reminds me——

Mr. CLARK. I thank the Senator from Illinois for yielding.

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

Mr. DIRKSEN. Oh, Mr. President, not yet; we have lots of time.

Where is my friend from Pennsylvania? What was it somebody once said? Pennsylvania rates two great men: William Penn and Albert Gallatin. The only trouble was that Albert Gallatin, a Secretary of the Treasury, was born in Switzerland.

Mr. CLARK. I regret that my friend has eliminated Benjamin Franklin from his list.

Mr. DIRKSEN. Yes, but he was not a lawyer. He was like a trombone out of place.

The fact is that more and more of this burden is coming down upon the little fellow. Just give the world crusaders a chance, and they will have all the little fellows under the Federal statute, under the regulations they are issuing. Then what will happen? The little fellows will have to do business with mistrust and misgivings, and it is not worth the doing.

I recall when I was operating a small bakery. The Department of Commerce had pleaded and begged and sandbagged me for reports, reports, and reports. It would have taken days to sit down and determine how many pounds of lard, how many pounds of yeast, how many barrels of flour, and how many barrels of salt were used in the course of a year. I did not keep books in that way; I did not try to keep an encyclopedia of business. I threw the report forms in the waste basket.

Then one fine day a high school classmate came in. I said, "Robert, what are you doing here? I haven't seen you for years."

He said, "Why, I am working for the Federal Government."

I said, "The devil you are. Goody for you that you got a job. Is it a civil service job?"

"Yes," he said. "I qualified. I am a GS–9"—or 10, or whatever it was.

I said, "What brought you here?"

He said, "You know, you haven't sent in that report to the Department of Commerce."

I said, "I not only have not but I am not going to." He said, "You have got to. Did you look at the bottom of the form?" I said, "What's on the bottom?" He said, "In dark type it says they can fine you $10,000 and put you in jail." I said, "I don't want to go to jail. I never saw a jail that was healthy. The furniture and food are not good—although I have not been in jail."

So he went away. He came back again. He said, "For the sake of friendship, don't do this. Don't force me." I said, "I am not forcing you. You are an agent of his majesty's government, the U.S. Government. How could I force you?" He said, "You make out that form. My job may be in jeopardy." I said, "The Illinois River is two blocks away from this bakery. You go jump in that river. I am not going to finish that report."

I never did finish it.

But think of the number of people who have kowtowed in doing that very

thing. Since then these reports have grown in number until they are an absolute burden on little businesses.

Senators rallied to the cause when we took off the excise taxes. Why? Not because of the money involved, but because of the paperwork burden. That is the paperwork curtain. You have all heard of the Bamboo Curtain and the Iron Curtain. Now there is the paperwork curtain. The only place we find it is in the United States of America, imposed by the Government itself.

So, if we go down this course, what happens to the "bold peasantry, their country's pride, when once destroyed, can never be supplied"? We see how the big retail businesses have swallowed up the little fellows. They do not come back. Put this burden of paperwork on them, and they will go out of business by the hundreds. If we do not help him, the little businessman will go down in a short time.

Let us reject the conference report and let us go back and restore the $350,000 provision the Senator from Vermont offered. It is the least we can do for the "little guy." We go wringing our hands, we cry crocodile tears, for the little farmer and the little businessman, but when it comes time to lay it on the line, we do not do it. If they are not going to save him on that side of the aisle, let us give him a break on this side of the aisle and step up for him. Let us not adopt the conference report. Then it is open to amendment, and we can take up the small enterprise amendment and do a job with it.

That is the whole story, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. YARBOROUGH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. YARBOROUGH. How much time is left on each side?

The PRESIDING OFFICER. The Senator from Illinois and the Senator from Vermont have 15 minutes remaining, and the Senator from Texas has 6 minutes remaining.

Mr. YARBOROUGH. Mr. President, I yield myself 2 minutes.

It has been pointed out by the Parliamentarian on inquiry—although many Senators were not present when these inquiries were made—that if the conference report goes back to conference, it goes back with everything. It cannot be limited to only one or two items under the rules of both the House and the Senate.

To return the bill would put the farm labor amendments and the whole bill in jeopardy for a total of 37,800,000 workers, 8,200,000 with no coverage at the present time.

Mr. JAVITS. Mr. President, will the Senator yield, to make it very clear that no matter what instructions we give the conferees, we cannot bind either the conferees or the conference?

Mr. YARBOROUGH. That is exactly right. It has been so stated, upon inquiry, by the Parliamentarian. If we send this back to conference, it does not make any difference what instructions we give the conferees, the matter will be wide open.

The conference report covers 38 points. The Senate prevailed in 21 points, the House in 17.

I wish to point out that we are bringing under this bill for the first time 8,100,000 workers—360,000 farmworkers, but also 7,700,000 who work mainly in laundries, motels, hotels, hospitals, restaurants—the service trades—who have never had the protection of a minimum wage law, and have therefore never had the protection of the Fair Labor Standards Act.

They are the disadvantaged workers of America. They are the poor of America. All the poverty surveys show that the two greatest groups among the poor are the aged people of America and the widows, the heads of families with children, where there is no man in the family, and who work in those laundries, motels, hotels, restaurants, and hospitals—in the service trades.

Those women, who are the heads of families themselves, are having to support children at home. This bill provides that we start with a modest $1 an hour next year, the following year, $1.15, and on up—it takes 5 years to get up to the $1.60 an hour minimum.

As to the small business test, a small business test of $250,000 is provided in the bill. If a business grosses less than $250,000 a year, it is exempt.

How much is $250,000 a year? If you have a motel with 50 rooms, and rent those rooms at $13 a night, and rent every single room every night——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. YARBOROUGH. I yield myself 30 additional seconds.

Every night, for 365 days a year, you still would not have a total gross income of $250,000.

So the little businesses are exempt. Every corner grocery store is exempt. Every so-called family business is exempt—every "mom and pop" establishment, operated by the family with the assistance of the grandparents, is exempt, even if it takes in a million dollars a year.

And, Mr. President, that total extension of coverage will not be effective until 1969. It is just a reduction to a $500,000 gross business test next year. We are talking about 2 years off.

Mr. President, I submit that the conference report should be accepted, and that this effort to destroy it should be rejected. I move that the conference report be agreed to.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DIRKSEN. Mr. President, is the Senator from Texas ready to yield back the remainder of his time? I shall yield myself 2 minutes, and then I shall be ready to yield back the remainder of my time—or did the Senator from Ohio wish time?

Mr. LAUSCHE. Mr. President, I should like to ask the Senator from Vermont, how many Senators were members of the conference committee?

Mr. PROUTY. There were 11.

Mr. LAUSCHE. How many of those 11, when the vote was cast on the $350,000 figure, voted for it, and how many against it?

Mr. PROUTY. I do not think we voted on it separately. On the farm question, the vote in the Committee on Labor and Public Welfare was 10 to 6 in favor of my position. In the conference, it was 8 to 3 for the Senate to recede.

Mr. LAUSCHE. Perhaps my question cannot be answered by the Senator from Vermont; but the Senator from Illinois offered an amendment that the figure of $500,000 be retained. That was voted down. The Senator from Vermont then offered the $350,000 amendment.

Mr. PROUTY. That is correct.

Mr. LAUSCHE. My question is, How many of the Senate conferees voted for the amendment of the Senator from Vermont? My recollection is that eight of them voted against it and three voted for it.

Mr. PROUTY. I do not recall, but the Senator is probably correct. The record vote in the Senate is on page 20808 of the RECORD of August 26. I do recall that on that vote, 41 Senators voted in support of my amendment. Eight Senators were listed in the RECORD as in favor of my amendment, though they were either paired or absent. In other words, a total of 49 Senators are in the RECORD in support of the amendment I offered in the Senate.

Mr. LAUSCHE. I think an examination of the RECORD will show what the leaning of the members of the conference committee was. That is, were they against the Senator's amendment, in the main, when it came up for consideration, or were they for it? If they were against it here, of course, they were against it in the conference.

Mr. PROUTY. I have not checked the RECORD, but my best recollection is that they were against it.

Mr. MORSE. Mr. President, will the Senator from Illinois yield 30 seconds to me?

Mr. DIRKSEN. I yield 30 seconds to the Senator from Oregon.

Mr. MORSE. I say to the Senator from Ohio, we cannot give the record on how the conferees voted on the $350,000 Prouty amendment in conference, because we did not vote on it singly. It was a part of a package. We discussed that package, worked out compromises on the package, and voted on the package. We voted to give way on this matter in conference, in order to retain something we considered more important.

Mr. LAUSCHE. I understand that, but the pertinent part of my question is, what was the leaning of the members of the conference committee when they were appointed? Were they of a complexion that they were, at the time of appointment, against the Prouty amendment?

Mr. MORSE. It does not make any difference what our leanings were. But I wish to boast about the conferees, for every one of us, no matter how we voted in the Senate, fought for the Senate amendments, up to the point where we knew we could not prevail. It was only then that we started to compromise.

Mr. RANDOLPH. Mr. President, will the Senator from Illinois yield me 30 seconds?

Mr. DIRKSEN. I yield 30 seconds to the Senator from West Virginia.

Mr. RANDOLPH. I thank my cherished colleague.

For the record I shall say that the conferees on the part of the Senate, in connection with this important legislation, were all members of the Subcommittee on Labor, both Democrat and Republican. This assured all viewpoints, personal and in response to earlier Senate action.

Mr. DIRKSEN. Now, Mr. President, I yield myself 2 minutes. Then I will yield back the remainder of my time, and we will vote.

My friend, the Senator from Texas, talks about destroying this conference report. He knows full well that many a conference report has gone back, and the fighting never gets good, in a conference with the House, until you have gone back and belabored them. I have been on hundreds of conferences, both on the part of the House and on the part of the Senate, in my years, and I know precisely what happens. The Senator from Texas says you open up this whole business. You do not do anything of the kind. They can read the CONGRESSIONAL RECORD over there. They know how we feel, and that here are the two items in which we are interested.

But we will have no chance at it unless we open up this conference report. That does not involve any destruction whatsoever, nor does it involve a stretchout of time. It can be done in reasonably short order; and if we wish to make a little effort in behalf of small business in this country, this is the time to do it, or forever hold our peace.

Every retail association in the country, and all the independent small business people, have been in favor of maintaining a larger base for small enterprise.

Now, you have your choice. But you are not going to get anything from them unless you first vote this conference report down; and I urge that that be done.

Mr. RANDOLPH. Mr. President, will the Senator yield me another 30 seconds?

Mr. DIRKSEN. Thirty seconds.

Mr. RANDOLPH. I have tremendous admiration for the Senator from Illinois. We came to the House of Representatives in the same year. We began our service in the 73d Congress. I hope it is not inappropriate to recall that on June 14, 1938, when we voted in the House of Representatives on agreeing to the conference report on the Fair Labor Standards Act, the Senator, then a Representative from Illinois, voted for that conference report, which brought the Fair Labor Standards Act into being.

The PRESIDING OFFICER. The Senator's 30 seconds have expired.

Mr. DIRKSEN. I yield the Senator 30 additional seconds.

Mr. RANDOLPH. I only wish—and I say this in good conscience and good humor—that this afternoon, the Senator from Illinois could appear in the same role as he appeared in 1938, when he voted for the conference report, as did the Senator now speaking. In that effort we were to begin to increase very low wages and to shorten the too long hours of toil and in part remove the unsanitary and intolerable working condition for men, women, and children. We have moved the economy of this Nation forward. Let us not slow down or sidetrack the good already won.

But, although I take issue with my friend, I respect his conviction.

Mr. DIRKSEN. Mr. President, I yield myself 30 seconds.

The VICE PRESIDENT. The Senator from Illinois is recognized.

Mr. DIRKSEN. Mr. President, I have not changed my mind about the minimum wage and maximum hours. It is this Government and the bureaucrats and the labor organizations who have intruded themselves and contributed all of these refinements. That is a different dish from the day when we voted in the House of Representatives 28 years ago on minimum wage and maximum hours.

Mr. President, I yield 30 seconds to the Senator from Vermont.

Mr. PROUTY. Mr. President, I wish to make it clear that, if the conference report is rejected, I shall move to request a conference with the House on the disagreeing votes of the two Houses. I shall move to instruct the Senate conferees on two specific issues which will be voted on separately.

I do not wish to ask the Senate to vote against the small businessmen and the small farmers at the same time. I want to give them a chance to vote separately on those matters.

We will then go back to the conference, if the motions are agreed to, with instructions, and I am sure that we will return to the Senate with a much better bill.

Mr. DIRKSEN. Mr. President, I yield back the remainder of my time.

Mr. YARBOROUGH. Mr. President, I yield myself 1 minute.

Mr. DIRKSEN. Mr. President, I save my time.

Mr. YARBOROUGH. Mr. President, the able Senator from Oregon has very ably pointed out that this was a package arrangement in the horse trading that went on. It was a very hard-fought-for measure.

I want to point out one thing that has not been pointed out on the floor as to why we were disadvantaged concerning the minimum wage rate, from the start.

When we met with the House conferees, the House conferees were militant against the $350,000 amendment. They pointed out that the language contained in the $350,000 amendment would remove from the coverage of the act 30,000 service station employees and leave these employees without protection.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. YARBOROUGH. Mr. President, I yield myself 1 additional minute.

The VICE PRESIDENT. The Senator from Texas is recognized for 1 additional minute.

Mr. YARBOROUGH. Mr. President, these employees have heretofore been protected. We would not only be postponing the date of coverage of the newly covered employees by agreement to this amendment, but we would be actually eliminating the coverage that the other workers already had.

We were not going to agree to such an amendment. I hope that we are not ordered to go back to conference and eliminate from the coverage of the minimum wage law the workers already covered.

I hope that the Senate will not order us to go back to conference and remove 30,000 workers who have been covered by the act for many years.

The conference report cannot be accepted or rejected piecemeal. If the conference report is rejected, it is all in conference, and every agreement that we have made is down the drain and the hourly rates of 37,800,000 workers are placed in jeopardy, of whom 8,200,000 have no protection at this time.

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

Mr. DIRKSEN. I yield.

Mr. MANSFIELD. Mr. President, I hope that the Senate will agree to the conference report. The conference report is the result of hard work on the part of committees representing the House and the Senate.

I personally am sorry that the limitation of $350,000 was not retained. However, the distinguished senior Senator from Oregon has explained that situation, as has the distinguished senior Senator from Texas.

I am afraid that if this measure goes back to conference, it will be left wide open, and there will be no minimum wage bill this year.

The results, in my opinion, could well be disastrous.

I hope that the conference report is agreed to.

Mr. DIRKSEN. Mr. President, I shall yield myself 1 minute and then quit.

The VICE PRESIDENT. The Senator from Illinois is recognized for 1 minute.

Mr. DIRKSEN. Mr. President, the so-called filling station item was within the framework of the conference. The Senator from Vermont wanted to get that matter cured. His offer was rejected.

You had a chance to operate on it, and you did not do it. You caved in to the House conferees. That is the trouble.

Since this is a deliberative body in which we do not operate under the 5-minute rule, whenever the Senate caves in, it ought to hang its head when it comes back.

The Members of the House of Representatives complain that we swipe their pants when we go to conference. We ought to. They operate under the 5-minute rule. We do not operate under such a rule. We can discuss a measure as long as we want to. And if it is not worn threadbare when we get through, then there is something wrong with the lusty bellows and the windpipes of the Senators.

Now, are you ready to yield the remainder of your time?

Mr. PROUTY. Mr. President, I yield 1 minute to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I join my colleagues from California and Ver-

mont in urging that the minimum wage bill be returned to a new Senate-House conference so that language covering pay for piecework by hand harvest workers can be restored and small businesses having sales of less than $350,000 annually can be exempted from the bill.

These provisions, particularly the piecework language of section 302, are of vital importance to Wyoming and other farming States. Their exclusion from the bill would do incalculable harm to America's farm-ranch States.

I urge that the conference report be rejected and that another conference be requested and that the conferees be instructed with respect to the piecework and small business provisions.

Mr. YARBOROUGH. Mr. President, I yield myself 1 minute.

The VICE PRESIDENT. The Senator from Texas has no time remaining.

Mr. DIRKSEN. Mr. President, I yield 10 seconds to the Senator from Texas.

Mr. YARBOROUGH. Mr. President, I hope that the Senate does not cave in and collapse on this measure and send the conferees back in the manner so beautifully described by the able minority leader, this great orator.

Let us not cave in in the manner suggested by this distinguished minority leader.

Mr. DIRKSEN. Mr. President, I yield myself 10 seconds.

The VICE PRESIDENT. The Senator from Illinois is recognized.

Mr. DIRKSEN. Mr. President, I hope the Senate will not cave in on this inequity.

I yield back the remainder of my time.

The VICE PRESIDENT. All time having expired, the question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. YOUNG of Ohio. Mr. President, before the call of the roll is commenced, I ask that the Vice President direct that the aisles be cleared of all attachés who are, merely out of curiosity, standing in the aisles.

The junior Senator from Ohio wants to hear every vote recorded.

The VICE PRESIDENT. The Senator from Ohio has made a very appropriate request.

All attachés will please be seated or remove themselves from the Chamber.

All time having expired, the question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RUSSELL of Georgia (when his name was called). Mr. President, on this question I have a pair with the senior Senator from Wyoming [Mr. McGEE]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The legislative clerk resumed and concluded the call of the roll.

Mr. RUSSELL of South Carolina (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Washington [Mr. MAGNUSON]. I understand that if he were present, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. INOUYE. I announce that the Senator from Louisiana [Mr. LONG], and the Senator from Washington [Mr. MAGNUSON], are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Arizona [Mr. HAYDEN], and the Senator from Wyoming [Mr. McGEE], are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], and the Senator from Louisiana [Mr. LONG], would each vote "yea."

The result was announced—yeas 55, nays 38, as follows:

[Leg. No. 253]

YEAS—55

| | | |
|---|---|---|
| Anderson | Harris | Moss |
| Bass | Hart | Muskie |
| Bayh | Hartke | Nelson |
| Bible | Inouye | Neuberger |
| Boggs | Jackson | Pastore |
| Brewster | Javits | Pell |
| Burdick | Kennedy, Mass. | Proxmire |
| Byrd, W. Va. | Kennedy, N.Y. | Randolph |
| Cannon | Kuchel | Ribicoff |
| Case | Long, Mo. | Saltonstall |
| Church | Mansfield | Scott |
| Clark | McCarthy | Smith |
| Cooper | McGovern | Symington |
| Dodd | McIntyre | Tydings |
| Douglas | Metcalf | Williams, N.J. |
| Fong | Mondale | Yarborough |
| Gore | Monroney | Young, Ohio |
| Griffin | Montoya | |
| Gruening | Morse | |

NAYS—38

| | | |
|---|---|---|
| Aiken | Fulbright | Pearson |
| Allott | Hickenlooper | Prouty |
| Bennett | Hill | Robertson |
| Byrd, Va. | Holland | Simpson |
| Carlson | Hruska | Smathers |
| Cotton | Jordan, N.C. | Sparkman |
| Curtis | Jordan, Idaho | Stennis |
| Dirksen | Lausche | Talmadge |
| Dominick | McClellan | Thurmond |
| Eastland | Miller | Tower |
| Ellender | Morton | Williams, Del. |
| Ervin | Mundt | Young, N. Dak. |
| Fannin | Murphy | |

NOT VOTING—7

| | | |
|---|---|---|
| Bartlett | Magnuson | Russell, S.C. |
| Hayden | McGee | Russell, Ga. |
| Long, La. | | |

So the report was agreed to.

Mr. YARBOROUGH. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, the Senate's acceptance of the minimum wage conference report today marks the successful culmination of a truly outstanding effort on the part of a number of Senators. Foremost were the efforts of the senior Senator from Texas [Mr. YARBOROUGH], who, as chairman of the Labor Subcommittee, worked long and hard to achieve first, a bill that could be endorsed by the Senate and second, a conference report equally satisfactory. Such an achievement on a measure as complex and difficult as this deserves the highest praise—praise highly earned by Senator YARBOROUGH.

The senior Senator from Oregon [Mr. MORSE] deserves equally high commendation for his typically strong and articulate support in committee, in conference, and on the floor. At the conference table the Senate always can count on the full utilization of Senator MORSE's great skill and talent for protecting its position to the fullest.

And, of course, the senior Senator from New York [Mr. JAVITS], the ranking minority member of the committee, added the full measure of his unexcelled advocating abilities both in conference and today on the floor to assure Senate approval.

Similarly the distinguished Senators from New Jersey [Mr. WILLIAMS], West Virginia [Mr. RANDOLPH], and Pennsylvania [Mr. CLARK] are to be commended for their characteristically marvelous support on behalf of the conference report. Without such a high degree of articulate backing by these and other Senators, surely this outstanding triumph could not have been obtained.

Finally, to those who opposed certain aspects of the conference report but who nevertheless joined to assure its disposition today we are grateful. I refer to the Senator from Vermont [Mr. PROUTY] and the Senator from Illinois [Mr. DIRKSEN], the distinguished minority leader. These Senators and others urged their own strong and sincere views in opposition but, in so characteristic a manner, did not impede or obstruct the measure. For this we are thankful.

In conclusion, I again thank the Senate as a whole for its splendid cooperation in assuring orderly and efficient action today. It is the hope of the leadership that cooperation of this magnitude will continue on for the remainder of the session.

## CIVIL RIGHTS ACT OF 1966

The Senate resumed the consideration of the motion of the Senator from Michigan [Mr. HART] to proceed to the consideration of the bill (H.R. 14765) to assure nondiscrimination in Federal and State jury selection and service, to facilitate the desegregation of public education and other public facilities, to provide judicial relief against discriminatory housing practices, to prescribe penalties for certain acts of violence or intimidation, and for other purposes.

### CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call for the quorum under the rule be suspended on the next vote.

The VICE PRESIDENT. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. PASTORE. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will be in order.

Is it the sense of the Senate that the debate on the motion to proceed to the consideration of H.R. 14765 shall be brought to a close? Under the rule, the yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Washington [Mr. MAGNUSON], is absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from

Arizona [Mr. HAYDEN], and the Senator from Wyoming [Mr. McGEE], are necessarily absent.

On this vote, the Senator from Washington [Mr. MAGNUSON] and the Senator from Wyoming [Mr. McGEE] are paired with the Senator from Arizona [Mr. HAYDEN]. If present and voting, the Senator from Washington would vote "yea," the Senator from Wyoming would vote "yea," and the Senator from Arizona would vote "nay."

The yeas and nays resulted—yeas 54, nays 42, as follows:

[Leg. No. 254]

YEAS—54

| | | |
|---|---|---|
| Aiken | Harris | Morse |
| Allott | Hart | Moss |
| Anderson | Hartke | Muskie |
| Bass | Inouye | Nelson |
| Bayh | Jackson | Neuberger |
| Boggs | Javits | Pastore |
| Brewster | Kennedy, Mass. | Pell |
| Burdick | Kennedy, N.Y. | Proxmire |
| Case | Kuchel | Randolph |
| Church | Long, Mo. | Ribicoff |
| Clark | Mansfield | Saltonstall |
| Dodd | McCarthy | Scott |
| Dominick | McGovern | Smith |
| Douglas | McIntyre | Symington |
| Fong | Metcalf | Tydings |
| Gore | Mondale | Williams, N.J. |
| Griffin | Monroney | Yarborough |
| Gruening | Montoya | Young, Ohio |

NAYS—42

| | | |
|---|---|---|
| Bennett | Fulbright | Pearson |
| Bible | Hickenlooper | Prouty |
| Byrd, Va. | Hill | Robertson |
| Byrd, W. Va. | Holland | Russell, S.C. |
| Cannon | Hruska | Russell, Ga. |
| Carlson | Jordan, N.C. | Simpson |
| Cooper | Jordan, Idaho | Smathers |
| Cotton | Lausche | Sparkman |
| Curtis | Long, La. | Stennis |
| Dirksen | McClellan | Talmadge |
| Eastland | Miller | Thurmond |
| Ellender | Morton | Tower |
| Ervin | Mundt | Williams, Del. |
| Fannin | Murphy | Young, N. Dak. |

NOT VOTING—4

| | | |
|---|---|---|
| Bartlett | Magnuson | McGee |
| Hayden | | |

The VICE PRESIDENT. On this vote there are 54 yeas and 42 nays. Under rule XXII, two-thirds of the Senators present and voting not having voted in the affirmative, the motion is not agreed to.

Mr. STENNIS. Mr. President, I ask the Vice President to restore order in the Senate before any further proceedings take place so that Senators can hear.

The VICE PRESIDENT. The request of the Senator is desirable and in order. Senators will please be seated.

The Senator from Illinois is recognized.

## ORDER FOR RECESS UNTIL TOMORROW, FRIDAY, AND MONDAY—LEGISLATIVE PROGRAM

Mr. DIRKSEN. Mr. President, I would like to ask the distinguished majority leader about the program for tomorrow, and possibly the next day, and insofar as he knows, into Monday of next week, and also the hour for the convening of the Senate.

Mr. MANSFIELD. Mr. President, in response to the questions raised by my distinguished colleague, the minority leader, I would like at this time to ask unanimous consent that when the Senate completes its business today it stand in recess until 12 o'clock noon tomorrow.

The VICE PRESIDENT. Is there objection? Hearing no objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow it stand in recess until 12 o'clock noon on Friday next.

The VICE PRESIDENT. Is there objection? Hearing no objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday it stand in recess until 12 o'clock noon on Monday next.

The VICE PRESIDENT. Is there objection? Hearing no objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the business will be what we have been having for the past 6 or 7 days, I may say to my distinguished colleague: the question of taking up a little bill which the distinguished Senator from Michigan [Mr. HART] has been trying for a week to bring to the attention of the Senate.

In the meantime, with the minority leader's permission, and the Senate's concurrence, we will take up unobjected-to items and keep the calendar as clear as we can.

Mr. HOLLAND. Mr. President, I could not hear the last statement.

Mr. MANSFIELD. We shall try to keep the calendar clear. There are some bills on the calendar which have been reported by the Committee on Armed Services. There will be a couple of bills having to do with the Philippines, and one having to do with interest rates, and that will likely be brought up tomorrow.

Mr. DIRKSEN. I have one other question, and I hope the Senate will listen. The majority leader has been gracious enough to include in his unanimous-consent request at the time of the morning hour that the so-called measure which has been engaging our attention will not be motioned up in the morning hour, and I assume that he will give us assurance of that.

Mr. MANSFIELD. Absolutely, and I make that unanimous-consent request right now.

The VICE PRESIDENT. Is there objection?

Mr. RUSSELL of Georgia. Mr. President, may we have the unanimous-consent request clearly stated?

The VICE PRESIDENT. The Senator from Montana will restate his unanimous-consent request.

Mr. MANSFIELD. That it is my intention—and I make the request now—for the next 3 days, that there be a brief morning hour for the transaction of routine morning business, and that statements be limited to 3 minutes, and that the unfinished business not be displaced.

Mr. RUSSELL of Georgia. Is it the intention of the majority leader to take up legislation in the morning hour?

Mr. MANSFIELD. If it is unobjected to, but not legislation which the Senator has in mind, I can assure him. [Laughter.]

The Senator from Georgia will be fully protected.

Mr. RUSSELL of Georgia. I am glad to hear that. The distinguished Senator is psychic. I had other things in mind other than the motion which has been made by the Senator from Michigan.

Mr. JAVITS. Mr. President, reserving the right to object——

Mr. MANSFIELD. I will withdraw it——

Mr. JAVITS. No—I think the distinguished Senator misspoke himself when he said "discuss." We all understand it is not to be motioned up, but suppose a Senator wishes to say something about the pending business——

Mr. MANSFIELD. There is nothing to prevent any Senator from speaking about it.

Mr. JAVITS. That is right, but the Senator used the word "discuss" in his unanimous-consent request, which could be taken to mean that it would not be motioned up, which is fine with me.

Mr. MANSFIELD. I asked that the unfinished business not be displaced.

The VICE PRESIDENT. Is there objection to the unanimous-consent request of the Senator from Montana?

The Chair hears none, and it is so ordered.

## JOINT MEETING OF THE TWO HOUSES TOMORROW

Mr. MANSFIELD. Mr. President, for the information of the Senate, all Senators will meet in the Chamber at 12:13 o'clock tomorrow. We will leave here at approximately 12:15 o'clock and proceed in a body to the Hall of the House of Representatives, for the purpose of meeting in joint meeting with the House of Representatives to hear the very distinguished President of the Philippines, Ferdinand Marcos, deliver an address to a joint session.

## MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

H.R. 11488. An act to authorize the grade of brigadier general in the Medical Service Corps of the Regular Army, and for other purposes; and

H.R. 13508. An act to direct the Secretary of Interior to cooperate with the States of New York and New Jersey on a program to develop, preserve, and restore the resources of the Hudson River and its shores and to authorize certain necessary steps to be taken to protect those resources from adverse Federal actions until the States and Congress shall have had an opportunity to act on that program.

## A VIETNAM VIEW

Mr. ALLOTT. Mr. President, I hold in my hand a letter to the editor which was published in the Longmont Times Call, written by Charles L. Dunfee, Sr., who is now in Vietnam.

I commend his thoughts and his inspiration to all Senators, and I truly believe that they will find inspiration in his words.

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

The PRESIDING OFFICER (Mr. RUSSELL of South Carolina in the chair). Is there objection?

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

VIETNAM VIEW

(EDITOR'S NOTE.—Specialist Charles L. Dunfee, Jr., is the son of Mr. and Mrs. F. H. Dunfee of 436 Baker St., Longmont. He is a graduate of Longmont High School and has been in the Army 12 years. His wife Amy, formerly of Mead, and his three children are living in Longmont now. Charles Jr. started kindergarten Tuesday morning.)

To the EDITOR:

"Get out of Viet Nam!" I heard as I suddenly woke, wide awake. It was two o'clock in the morning, Saigon time, when I woke up with these words ringing loudly in my ears. I rolled over in the sack and tried to go back to sleep, but this thought kept running through my mind, and sleep just wasn't there. Yes, let's get out of Viet Nam! Then what? The fighting was just four miles away last night, the flares and tracers were readily visible as the sounds of battle rang clear in the night. It is now the dead quiet hours of early morning with the sounds of fighting not two hours silent, and here I lie thinking of this question, "Then What?"

After we back out of Viet Nam, I hear vividly that little voice in the back of my mind saying, "Get out of the Philippines!" Oh, well, they are a small chain of islands, not worth fighting for. Let's not have any trouble over them. Next I hear, "Get out of Japan and Korea!" We were there before fighting, let's not go through that again, instead let's move out of there, too. What comes next? Oh, yes, "Get out of Hawaii!" Now wait a minute!!! That is one of our own states. But then again let's think this over. Hawaii is such a small place, and so far away from our mainland. Is it really worth fighting for? Then that little voice gets an even more menacing tone to it. "Get out of San Francisco!" Now we have come to the end of our backing; but now let's stop to survey the situation more clearly. Now it is America against the whole world; do you know, we look mighty small in that light.

As the hours drag by I look back now. Why am I in Viet Nam? Myself, like so many others, we asked to be here. I think I have the most beautiful, wonderful country in the world, and I want to keep it that way. I have seen the devastation in Korea, and now history is repeating itself here in Viet Nam. Let's not see the ravages of war in our own country. I really wonder, do these people at home ever think beyond the end of their noses when they cry, "Let's bring our boys home"?

The soldier has a Code by which he lives. It starts, "I am an American fighting man. I serve the forces which guard my country and our way of life. I am prepared to give my life in their defense." It ends, "I will never forget that I am an American fighting man, responsible for my actions, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America." These aren't just some words on a piece of paper. To most of us over here, it is an utterance from our very hearts. If I must fight and possibly die for my country, I do so with the knowledge that it is God's will, and I do so of my own free will. I just wish I could tell the whole world of this feeling that is within me. I dedicate my life to my wife and our three children—that if necessary I will gladly give it up with the thought of the words of our Lord when he said, "What greater love is there than if a man lay down his life for a friend." I am speaking for many men when I say that my family will live in freedom and safety because we are stopping the forces of evil over here, before it has the chance to spread to our very homes.

The dawn is beginning to break; I guess I had better get off this cloud and back to the reality that this is a hot, miserable country, and we have a bloody, stinking war that we MUST fight.

Sp5c. CHARLES L. DUNFEE, Sr.,
*U.S. Army.*

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## INTERNAL REVENUE'S NEW PROPOSED REGULATIONS ON DEDUCTIBILITY OF EDUCATIONAL EXPENSES

Mr. PEARSON. Mr. President, on July 7, 1966, the Internal Revenue Service issued notice of its intention to change the tax regulations with regard to the deductibility of educational expenses. These changes would, in essence, disallow many of the members of the teaching profession from deducting costs which they incur in bettering their abilities and skills for educating our young.

Continually, since the issuance of T.D. 6291 by the IRS in 1958, this agency has forced large numbers of teachers into litigation over their eligibility to deduct certain of their expenditures made in obtaining new teaching knowledge. This policy was followed despite the fact that it has been a longstanding intent of Congress that expenses incurred by teachers for their education could be deducted even in cases where they were incurred voluntarily and taken for academic credit or a degree, or in expectation of an increase in salary. The position taken by the IRS was that expenses could be deducted only when the teacher had met the "minimum" qualifications for his employment, thereby in pursuing additional education it would only be to "maintain or improve" existing skills. In each of these cases, the IRS lost because the distinctions which they advanced were not in line with the recognized congressional policy.

Now the IRS has decided that what they cannot accomplish by judicial decisions can be accomplished by the issuance of new regulations. Therefore, the judicially sanctioned tests of "maintaining or improving skills" and "pursuing the requirements of employment, regardless of academic credit" have been discarded presumably because these tests rendered it too difficult to win a tax case. In its new proposed regulations, the IRS has not only reinstated the so-called minimum test which had been refuted by many judicial decisions, but had defined the test in a way which, practically speaking, ends all reasonable chance of deducting educational expenses.

The proposed regulations state that educational expenses "are not deductible as ordinary and necessary business expenses even though they may maintain or improve skills required by the individual in his present employment" if the additional training, first, qualifies "the individual for a position which he has not, at the time such education is undertaken, met the minimum education requirements"; or second, results in a "substantial advancement" of position or salary; or third, "is undertaken as a part of a program leading to attainment of a recognized level of education" such as a "degree, diploma, or similar certificate evidencing completion of a recognized education program."

Mr. President, we are in a period of history when the fourth grade child is being exposed to more technical science projects than we in our generation even dreamed, when first graders are becoming multilingual, and when sixth grade students understand complicated algebra and geometry problems, yet the IRS has proposed criteria for the deduction of teachers' expenses which are not only illogical, but completely foreign to our American concept of education. We expect our teachers to advance new ideas, but in these proposed regulations we undercut the principal initiative which motivates teachers to maintain the necessary high quality to teach these subjects. The examples offered in the regulations, section (f), illustrate this. If a teacher does not have a permanent or continuing teaching certificate he is not considered as having met his "minimum employment requirement" so that regardless of his desire to increase his knowledge, any expenses for courses which he takes are considered to be "personal expenses" to obtain a position, and will not qualify as deductible. This is true, Mr. President, even if his employer, the State board of education, reformulates its standards so as to require of him more than the certificate which he may presently hold. Similarly, if a teacher takes a summer course, which he intends to use to better his fall class content but which incidentally results in a diploma or any certificate evidencing completion, or in a "substantial increase" in salary or position, his expenses cannot be deducted. It is obvious to me, Mr. President, that these regulations completely discourage any desire for a teacher to take additional course work because they negate any positive financial advantages.

Therefore, Mr. President, this move by the IRS greatly disturbed me and, consequently, I cosponsored S. 3641, a bill introduced by Senator TALMADGE, which would clarify this policy and allow deductions of educational expenses incurred by the teacher whenever they are reasonable and necessary to help maintain the quality of his teaching ability, regardless of incidental side benefits or technical distinctions. However, because of the heavy schedule under which Congress is now working, it appears unlikely that this bill, or any of its counterparts, will receive action in this session.

Therefore, I would like to associate myself with the Senator from Indiana [Mr. HARTKE] in sponsoring an amendment to H.R. 11256, a bill which calls for the reformulation of our Federal tax lien system. The amendment would add a title to this bill which would provide for

the tax deduction measure espoused in S. 3641. It is my understanding that the possibilities of favorable action by the House of Representatives on this tax lien legislation is forthcoming and that the Senate Finance Committee looks upon this bill as an important measure to be passed this session.

I do not wish to unduly complicate this legislation by adding a title which advances different concept from that of the remainder of the bill, but I agree with the other sponsors of this amendment that this bill offers us the last chance in this session to pass this important tax deduction measure. I call on the members of the Senate Finance Committee, as well as all the Members of this body, to offer their help in insuring that the teachers of this country are allowed a deduction for expenses resulting from voluntary pursual of additional courses of study. As President Johnson has said, education is "the No. 1 business of the American people." I think it should be the No. 1 business of the U.S. Senate.

## TIES WITH RUMANIA WEAKEN

Mr. CLARK. Mr. President, we often hear that it is impossible for the United States and the countries of Eastern Europe to improve the unhappy state of their relations because these countries consider the war in Vietnam to be an insuperable obstacle. While there is no doubt that the Communist countries of Eastern Europe must evince at least a measure of political solidarity with the Communist regime in North Vietnam, we must be careful that we do not end up justifying inactivity on our part by using the very excuse that we accuse the Eastern European countries of using.

Let me cite an example. The September 11 issue of the New York Times contained an article written by David Binder, entitled "Ties of Rumania With United States Weaken." Mr. Binder began by saying:

All signs from Rumania indicate that her relations with the United States have worsened in the last two years for a variety of reasons.

Mr. Binder then went on to enumerate these reasons, and it is interesting that they did not include the war in Vietnam.

In essence, Mr. Binder reported that the present Rumanian Communist Party chief has decided to concentrate on building Rumanian relations with West Germany, France, and Italy rather than with the United States as his predecessor had tried to do. Discussing the "objective factors in the cooling of Rumanian ardor for promoting ties with Washington," Mr. Binder pointed to the refusal of the Firestone Co. to go ahead with plans to build a rubber plant and the administration's inability to accord Rumania most-favored-nation status in trade. Mr. Binder noted:

No such obstacle exists in Rumania's trade with the Western European countries and as a result exchanges with West Germany, France, and Italy are booming.

He added:

Political links with Western Europe are steadily increasing, too.

Mr. President, Rumania continues its efforts to assert an independent policy vis-a-vis the Soviet Union. It seems to me most regrettable that it is not at the same time developing stronger ties with the United States—at least ties of trade and commerce which are nonpolitical in character. It is apparently not because of any lack of desire on the part of the Rumanians that these ties are not being developed. It is because we give the Rumanians no other choice. Our private corporations are unwilling to do business in Rumania, because some self-styled patriots are so blinded by prejudice that they are unable to see that the national interest—which means their interest as well—is served by nonstrategic trade with Rumania. And we in the legislative branch are apparently unwilling to see most-favored-nation privileges accorded to Rumania.

In his letter of May 11, transmitting to the Congress the East-West Trade Relations Act of 1966, Secretary Rusk said:

We cannot expect trade alone to change the basic nature of the Communist system in any Eastern European country nor to settle fundamental differences between us. We can, however, expect that the many close relationships normally growing out of trade will provide opportunities for influencing the development of their societies toward more internal freedom and peaceful relations with the free world.

A healthy growth of trade will help to reduce the present dependence of these Eastern European countries on each other and the Soviet Union. They will be encouraged to rebuild the friendly ties they have historically had with the West. Independent action will become more attractive and more feasible. The conclusion of an agreement with any of these countries will be an inducement to others to seek the same benefits.

The very nature of trade, the necessity to follow established rules of behavior, the increased contact with the West, the increasing use of Western goods, the growing appreciation of their quality and of the efficient methods of their manufacture, the growing understanding of the skills, opportunities and earnings of free labor in the United States and other Western nations, the greater exposure to the miracles of American agriculture—all these things could encourage increasing liberalization of the internal economies of the Eastern European nations.

These are rational and persuasive arguments for trading with the countries of Eastern Europe. How unfortunate it is that we are not moved by them.

Mr. President, I ask unanimous consent to have Mr. Binder's article printed in the RECORD.

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

TIES OF RUMANIA WITH U.S. WEAKEN—RED LEADER CONCENTRATING ON WESTERN EUROPE

(By David Binder)

BELGRADE, YUGOSLAVIA, September 8.—All signs from Rumania indicate that her relations with the United States have worsened in the last two years for a variety of reasons.

Chief among them, in the view of experienced observers here, appears to be a decision by the Communist party chief, Nicolae Ceausescu, to concentrate on West Germany, France and Italy in Rumania's relations with the West.

There is a sharp contrast in this emphasis with the policy of his predecessor, the late Gheorghe Gheorghiu-Dej, who in 1964 sent a high-level trade delegation to Washington and authorized the raising of diplomatic missions from the legation to the embassy level.

The leader of the trade delegation was Gheorghe Gaston Marin, then the planning chief, who was ousted from his job last year by Mr. Ceausescu and appointed Deputy Premier with little more than ceremonial duties.

REASON FOR THEIR DIFFERENCE

Mr. Marin had been noted for his special interest in expanding relations with the United States, and this was believed to be a main reason why he and Mr. Ceausescu fell out.

Undoubtedly there were more important objective factors in the cooling of Rumanian ardor for promoting ties with Washington.

The most obvious of these was the refusal of the Firestone Company to go ahead with orally agreed-on plans to build a rubber plant in Ploesti.

However, the Rumanians were also disappointed in the Johnson Administration's inability to accord them a most-favored-nation status in trade, under which a nation obtains a status equal to the most favorable one extended by the other nation to any third state. The lack of this gravely hampers Rumania's possibilities for export to the United States.

No such obstacle exists in Rumania's trade with the West European countries and as a result exchanges with West Germany, France and Italy are booming.

POLITICAL LINKS INCREASE

Political links with West Europe are steadily increasing, too. Maurice Couve de Murville, the French Foreign Minister, received an unusually warm welcome in Bucharest last spring.

This week Dr. Kurt Schmücker, the West German Minister of Economics, was received in Bucharest by the highest Rumanian leaders, including Mr. Ceausescu and Premier Ion Gheorghe Maurer. Dr. Schmücker passed on an invitation for Foreign Minister Corneliu Manescu to visit Bonn.

Observers here conclude that Mr. Ceausescu has decided that he can exploit these contacts for the benefit of continued assertion of Rumania's independence policy vis-a-vis the Soviet Union as well as for useful trade without the heavy political onus attached to similar contacts with the United States at this time.

## FOOD FOR THE WORLD

Mr. CLARK. Mr. President, world population is growing at an astronomical pace. It is now 3.2 billion. In the next 34 years, by the year 2000, it will double to the incredible figure of nearly 6½ billion. How many of these people will starve? How will we be able to avoid chaos and violence and destruction?

I recently came across an exceptionally good survey article called "Food for the World," by Howard W. Mattson, which appeared in the December 1965 International Science and Technology. In this article, Mr. Mattson discusses the problem of burgeoning population and how our additional billions may be fed. His comments are instructive and his conclusions challenging. As Mr. Mattson puts it:

The population of Africa will double by 2000 A.D., increase by 150 percent in both the Near and Far East, and treble in Latin America. To maintain the present inadequate diets, the food supplies will also have to increase in the same proportions, as annual increase rates of 2 percent, 2¾ percent, and 3¼ percent, respectively.

The average increases over the past decade met or slightly exceeded these figures. However, most of the gains were made in the first half—from 1955 to 1960. Since then, per capita food production in all four areas has slowly decreased. This decline in production increases means that the easy avenues of increased food production have been exhausted. From here on, the inputs—technological, capital, and physical—must be increased greatly or the present slow deterioration in diet will continue.

These rates of increase can be achieved technically. This has been proved. That the efforts and inputs now being expended by the underdeveloped countries themselves, and by the developed world on their behalf, are insufficient to achieve them is also evident.

Here are the options: in a nation with a primarily grain-based diet and a population growth of 2¾ percent, it will take only five years without significant increases in total production to drop a 2,000 calorie diet to 1,750 calories. On the other hand, to increase the grain-based diet by 10 percent and provide a number of feed grains to add just 12 grams of animal protein per day, will require a production increase of almost 20 percent over the same five years. The first route is easy, but it leads to catastrophe. The second is hard, but its end is hope.

Mr. President, I ask unanimous consent that this précis of Mr. Mattson's article be inserted in the RECORD at this point.

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

World population is now about 3.2 billion. In fifteen years, it will be 4 billion, and by the year 2000 it will be double what it is today. Most of this increase will occur in Asia, Africa, and Latin America, the countries finding great difficulty in feeding their populations today. In 1964, the population of the underdeveloped nations was just over 2.2 billion; that of the developed nations, nearly 1 billion. Each has about the same area of cropland. At projected rates of increase the two areas will add 3 billion and 0.4 billion people, respectively, by 2000 A.D. If the United States were assigned its "share" of the transposed additional 3 billion people based upon area pro rata, this would amount to 750 million, about 190 million additional human beings every ten years, approximately doubling our population each decade. Such a rate would wreak havoc with jobs, schools, and food resources even in our well-favored economy. Instead the increase will actually occur in those areas which are finding it difficult to feed even their present populations. Utter chaos and violence-generating situations appear inevitable.

Population stabilization seems attainable. In South Korea and Taiwan, for example, the intrauterine device (IUD) has been received enthusiastically and the birth rates there are expected to drop by 25 percent within the next three years. However, long-term population control is not yet at hand. The potential child-bearers have already been born. Almost all of the responsibility for stimulating the increased food supply will lie with the developed countries of the world merely because they are the only ones with the awareness and the means to do it. Simple self-interest argues for such assistance: without it, we can expect violent upheavals.

The problem cannot be solved by mere redistribution of surpluses. By 1980 the new mouths in the underdeveloped world will need some 300 million tons of additional grain annually, an amount approaching the present total production of both North America and Western Europe. In contrast the U.S. stockpile of wheat presently is below 30 million tons and it is being used up very rapidly at the current time. In fact, 2 of every 5 bushels of wheat grown in the U.S. are being sent to India.

Even if sufficient food could be grown in the developed world, ships and harbor facilities, to say nothing of distribution facilities, could not handle the tonnages involved. The bulk of the new supplies must be generated within the hungry nations themselves.

Surprisingly, Portugal, Spain, Italy, Yugoslavia, Albania, Bulgaria, Greece, East Germany have a sufficiently high-calorie diet but only with minimum protein, as compared with the rest of Europe. High-calorie, high-protein diet is available only in Argentina and Uruguay in Latin America. All of the near-East except Israel, all of Asia except Viet Nam and Japan, all of Africa except Morocco, Algeria, Libya, Ethiopia, and South Africa, all of Central America and Peru suffer from low-calorie, low-protein diet. The exceptions noted in the foregoing have only a low-calorie, minimum protein diet. By low-calorie is meant about 2,150 daily calories; low-protein means less than 15 grams per day of animal protein. At this low level of protein, serious malnutrition is difficult to avoid regardless of total calories.

An examination of the ten years from the beginning of 1955 to the end of 1964 indicates that the world food production has increased almost negligibly and, in fact, shows an alarming down-trend toward the end of the decade. With the exception of Australia and New Zealand, and to a lesser extent Eastern Europe, including the U.S.S.R., almost all area food production rates have remained static, or have declined.

It has been estimated that to raise the production level of food grains high enough to feed the populations expected in Asia, Africa, and Latin America by 1980, will require an additional 30 million tons of fertilizer annually, an amount equal to the present total world production. Last year these areas used only 4 million tons, almost all of it imported. Further, there are species of food crops which do not respond particularly to fertilizer application. This is particularly true of tropical crops. For example, almost all the rice grown in Japan, North China, the Philippines, and the United States is the *japonica* variety, which is responsive to fertilizer application. The rice grown in India, South China, and elsewhere on the Asia mainland is the *indica* variety. Tests in India on the *indica* variety of rice show increases in output up to the application of 40 lb per acre of nitrogen; additional fertilizer brought no additional yield. In Arkansas and Texas, however, yields of *Japonica* continue to increase up to application rates of 120 lb of nitrogen per acre. Similar experimental results could be cited relative to almost every major food crop grown in the world, and make it extremely hazardous to project specific gains in production across the board. The same problem occurs in the introduction of "better seeds" to these areas. Which seed is better is a difficult and time-consuming problem. Climatic conditions, insect problems and disease resistance are unpredictable and require tests on the ground. Even in the United States it took 12 years before hybrid corn constituted ⅔ of the acreage planted, despite proven records of increased yields of as much as 85 extra bushels per acre above the extra cost of the seed.

Our experiences in introducing new seed varieties have created one important advantage. What we do have is not so much know-how, but know-how to get the know-how, plus a storehouse of varieties waiting to be tested and a good nucleus of trained agronomists. Nature is as unhurried as ever; you have to grow these new varieties under the same conditions as you expect to grow the crops and wait. While you are waiting the population keeps growing—and eating. Some have wondered if vast stretches of empty land existing around the world really are suitable for agriculture. The answer is in the main no. Land that is still unfarmed is unfarmed for good reason. It may be for low fertility, low or sporadic rainfall, rugged terrain, or excessive heat or cold.

Animals are notoriously inefficient at converting feed to meat. Nearly 90 percent of what a cow or pig eats is used up in keeping its metabolism going. Milk cows convert about 23 percent of their forage into milk, while chickens do the best. Under ideal conditions, growers can produce a 3-lb broiler on 6 lb of feed in less than 6 weeks. An idea of the actual amounts of food so "wasted" can be gained by comparing the differences in "primary" calories consumed in the U.S. and Western Europe and in India. The Indian eats his grain directly and unchanged. In addition, in his 2000 daily calories he gets about 6 grams of animal protein per day. An animal uses perhaps 400 calories of vegetable energy food to produce these six grams of protein so the Indian's consumption of "primary" calories is about 2400. The Western European feeds about half his agricultural produce to his animals and eats about 20 percent of his diet calories as animal products. Thus, to get his total 2850 calories daily he uses up 6750 calories of total agricultural production. Americans, at almost the other end of the scale from the Indians, feed the bulk of their plant material to livestock and eat about ⅓ of their diet calories in the form of meat, milk, or eggs. This means a consumption of almost 11,000 primary calories to provide an average diet level of 3150 calories.

Livestock yields in the developed countries like those of the grains have been going up for many years primarily as a result of new high-protein feed supplements, of new breeds of animals and fowl, that can use these feeds to provide a larger portion of the meat on the carcass, and of better management. Most of the underdeveloped countries, however, as we have seen simply don't have enough of the energy food-grains available to supplement livestock feed. Also, the local breeds of livestock often do not respond to new feeds in the same way that specially-developed breeds do, although as in the case of fertilizer, usually some increase in yield will result. Importing breeds of livestock that do well in temperate zones often works out less well than similar activities do in vegetable crops. Animals are more difficult to adapt to varying climatic conditions and can be highly susceptible to local diseases. Cattle cannot even live in large areas of Africa, for example, because of diseases spread by the tsetse fly which has not succumbed to long-continued eradication attempts. This is not to dispute the fact that new breeds can be developed but to point out that long periods of intense research must be done before optimum (or even strikingly improved) results will occur. While most animals need the same set of essential amino acids that we do, cows and sheep are ruminants and can manufacture amino acids much as a chemical plant does from almost any form of carbon, hydrogen, oxygen, and nitrogen. Cows have been raised quite successfully on mixtures of ground corn cobs (pure cellulose, to provide the carbon, hydrogen, and oxygen), urea (a cheap source of nitrogen), and a little molasses to start the bacteria working the cow's first stomach (the rumen). The weight gain and milk production from such diets is only about one-half to two-thirds that on more conventional feed. It is completely "free" in terms of competition with food for human consumption. The milk and the beef are completely normal in composition.

Another technique which lends to increased beef or milk production is the fertilization of the pasture land. Much of the world's grazing land is not suitable for other crop production because of low fertility,

difficult terrain, tree cover, etc. If such land could be made to yield larger amounts of forage or grass, more cattle per acre could be supported without competing with other crops for human consumption. Also, adequate forage must be available the year around; this means cutting and storing in foraging countries with alternate wet and dry seasons.

Increasing cattle production, however, raises a new problem—that of utilizing the product. Milk, for example, is a perishable commodity and the technology required for its processing is high in terms of both people and equipment. Processing plants are almost non-existent in the underdeveloped world today. It is pointless to urge or help a farmer in such an area to increase his milk production without providing him with enough nearby facilities to handle the increase. The UN's Food and Agricultural Organization recently analyzed the effort needed to provide such facilities. They took the figure of 1 billion under-nourished people, added the present rate of increase (50 million per year) and projected the number of new milk-processing plants needed to supply each person with 1 cup of milk equivalent per day, one-fourth of the current U.S. consumption. They came up with an immediate need for 2500 new plants each capable of processing 100,000 litres per day, a good-sized plant even in the U.S., plus 125 additional new plants of the same size each year to take care of the increased population. This comes to 3650 new plants over the next ten years—one plant built, equipped, and opened every day for ten years.

How religious, ethnic, or tribal usages can contravene natural availability of food is well-known. In India, there are about 160 million cattle, 45 million buffalo, 50 million goats, 40 million sheep, and 100 million poultry. This is about 20 percent of the world's cattle, 50 percent of the world's buffalo, and 18 percent of the world's goats.

While 72 million (36 percent) of the over 200 million cattle and buffalo are milch animals, religious prejudice inhibits the slaughter of those animals sterile or no longer useful for milk or as draft animals. As a consequence, about 100 million of these superannuated beasts wander all over India, foraging as they can, spreading filth and disease, stopping traffic, and generally using up precious forage much needed for productive animals. Cows in India produce an average of 300 to 400 lb/year of milk, buffaloes produce 1,000 to 1,100. In contrast a top cow in the U.S. will produce 20,000 lb of milk annually.

Fish are perhaps our most under-utilized conventional food source. They provide only about 1 percent of man's total food intake, although they do provide some 3 percent of total protein intake and actually 10 percent of the animal protein. Estimates of the non-utilized fish stocks range from 2½ to 4 times our present catch, a substantial increase. Hindrances to utilization of potential fish catches are great and again they lie in different areas. Large numbers of fishermen in underdeveloped areas catch no more than 1 ton of fish per year. The FAO experts have devised methods whereby rafts and outrigger canoes can be outfitted with a simple inboard or outboard motor, vastly increasing the range of such craft and cutting the time required to get to and from the "fields." This cuts down on unproductive time and keeps the fish crop in better condition. The FAO calculations show that a fisherman with a motor will increase his catch by anywhere from 2 to 10 times. Obviously a tenfold increase will pay for a motor and leave something left over. A doubled catch will not, which again raises the question of meager disposable income. Other effective steps are: replacing conventional fiber nets with nylon; mechanization of trollers; installation of electronic gear to find fish; etc. Few of these technical inputs remain effective without supporting repair, parts, and credit facilities as well as a fair level of technical competence in the people.

Increased catches of fish raise the same problem as does increased milk—lack of market processing facilities. Processing plants to preserve fish in what we consider traditional forms for human consumption are limited or non-existent. Also the typical inland housewife is generally unfamiliar with fish cookery since she seldom sees it in her market. Most of such huge catches are thus reduced to fishmeal, a dried de-fatted powder. Production of fishmeal has increased dramatically in the past decade, largely through the entry of Peru and Chile in the field. Peru's production of fishmeal has grown to more than 7¾ million tons in just nine years. However, here is an anomaly: the Peruvians, whose average animal protein consumption is 12 grams per day, export this protein-rich material to the U.S. and West Germany where it is added to animal feed!

Another approach to fishing is growing in use. This is fish farming. This consists in stocking a pond or rice paddy with fresh or brackish water fish, and providing the fish with nutrients. In Uganda, yields of 300 lb per acre come from stocking a pond with a small, hardy local fish, tilapia, which grows quickly to a weight of 1 or 2 lb without any help. If the farmer adds supplementary foods such as elephant grass and sweet potatoes, annual production can be boosted to 2,000 lb per acre. Actually, higher yields of protein per acre can be achieved by fish culture than by any other agricultural method known. The obvious drawback is the need for dependable water.

Protein from all animal sources now totals about 20 million tons a year, while protein from cereal grains totals 106 million tons. There are two important sources of vegetable protein that are little used today: legumes, such as various beans, peas, and lentils; and the oil seeds, such as soy beans, peanuts, and cottonseed. Present production of legumes provides only 7½ million tons of protein. Protein production from oil seeds is about equal to that from all animal products, but—strangely enough—very little of it is used for human consumption.

Legumes, for some reason, have never been as popular as grains for staple foods. They are more bulky, but not drastically so. Their storage properties are quite good, and their protein quality is adequate, if not equal to meat. The whole plant is widely used for forage crops, and has the valuable ability to "fix" nitrogen from the air and return it to the ground, reducing the need for nitrogen fertilizer. Legumes have good possibilities for improving protein availability in underdeveloped countries.

The situation with the oil seeds is paradoxical. Protein from such seeds is of high value. Soy bean meal, for example, is unusually high in the essential amino acid lysine, which is normally deficient in cereals. Thus, it is an ideal supplement for grain. Sesame seed and cottonseed are similarly good from a protein standpoint.

For some reason, historical or cultural, soy beans are eaten in quantity by humans only in the Orient. Although the U.S. grows about 60 percent of the world output, little is used for human consumption. Almost all goes into livestock and poultry feed here or abroad. Although China produces large quantities and Japan, Brazil, and Indonesia each grow small crops, soy is typically grown in corn-growing regions of the world and is virtually unknown in most of the protein-deficient regions. Cottonseed, although much more widely distributed, presents the problem of toxicity to human beings because of a toxic dye substance called gossypol. New techniques have now been developed to reduce or eliminate this constituent and make cottonseed meal safe for humans. Peanuts, widely grown in India and elsewhere yield a meal which is high in good quality protein, but which is also little used in human nutrition.

Why do such good sources of needed protein go to waste? The main historic reason is that these crops have been grown for their oil. The residue from the pressing operations has always presented a disposal problem. In some areas, it is now used for animal feed but where this market is inadequate it is used for fertilizer. In India, for example, more than 80 percent of the "presscake" with its 40 percent protein content, is used for manure. Two basic hindrances to increased use of oil seeds in improving nutrition are: facilities in which the oil is expressed are generally highly unsanitary and antiquated, usually yielding a fibrous, dirty presscake full of hulls and other scrap, and the protein is usually seriously degraded by excess heat. In addition, some extraction plants use a hydrocarbon solvent to remove the oil and the exhausted meal often contains toxic traces of hydrocarbon residues. Few existing processing plants could be converted to making a product fit for human consumption. New plants would have to be built. In addition, many countries resist using these materials on the ideological grounds that they are "second-rate" foods—previously considered useful only for animal feed or manure. This resistance will have to be overcome before they will be widely accepted.

A most important start has been made in an unusual direction, in Central America. This has taken place at the Instituto de Nutricion de Central America y Panama, INCAP for short. This organization set out some years ago to explore the idea that there were were unused nutritious foodstuffs available locally in most underdeveloped countries. Their approach was to take the locally accepted major staple grain—corn, in the case of Guatemala, where their pilot program began—and improve it with complementary high-protein local oil seed. They tried many combinations and now have tested nine "Incaparina" recipes for safety and nutritional value. All use a corn base supplemented by sesame or soy flour, torula yeast for vitamin-B, plus vitamin-A. In Guatemala, Incaparina is used to make a traditional thin gruel called atoles which Guatemalans relish as much as Americans do malted milkshakes. Using Incaparina has produced remarkable results in curing the effects of protein deficiency in children. It is nutritionally equivalent to milk but costs only one-fifth or one-sixth as much.

In countries where corn gruel beverages are not as popular as in most of Latin America, another form for its use must be found. It can be substituted for up to ⅔ of the wheat flour in non-bread recipes, or used to enrich soups, puddings, and other foods. Incaparina is now in full-scale commercial production in Guatemala and Colombia, with a total combined production of 215 tons per month and is being test-marketed in seven other Latin American countries. The present production is enough to provide an adequate daily protein intake for about 100,000 children, although it is estimated that the Latin American market potential is in the neighborhood of 33,000 tons per year. That amount would provide 1,250,000 children with the equivalent of 3 glasses of milk per day. To this has to be added enough energy foods (grains or starchy roots) to provide an adequate daily intake of calories.

There are a number of aspects of the Incaparina program which are instructional in terms of future prospects for similar programs. First, while it was intended to be strictly commercial in a sense that its production should be on a self-sustaining basis, the expenditure for research and development that has gone into formulation, test-

ing, and marketing has been very large in terms of the ultimate return. Secondly, in spite of the facts that the basic food is native to the population, the medical profession and the public health people are on its side, the price is kept low by volume production, it is not yet a runaway success.

In theory, there is no reason why fishmeal could not be made nutritionally safe for humans and used as a low-cost protein supplement for starchy foods. In fact, there are many reasons why this has not taken place. First, the processing situation is somewhat akin to that of the oil seeds. The existing facilities produce animal feed and are unhygenic. Entirely new and separate facilities will have to be built to produce a product fit for human consumption. Secondly, there is an aesthetic problem; most fishmeal is made from the whole fish—guts, scales, bones, and all, or from just these parts of the better fish which have been filleted at sea. The US/FDA takes the position that such a product is "filthy" regardless of the hygenic conditions of the plant producing it. The Bureau of Commercial Fisheries has devised processes which yield a palatable product in hopes that the FDA will approve the new product so that work may go on.

Next, is the question of flavor and smell. Fish flour (fishmeal suitable for human consumption) can be completely deodorized by extracting the fat down to less than 0.1 percent. Varying amounts may be left in up to 10 percent which will create a product which is attractive to those people who like fishy taste (there are many), but it becomes subject to rancidity and possible long-term health problems. The expense is obviously higher for the more refined products, but their neutral flavor makes them more suitable for incorporation into grain-based products such as bread. The problem of actually selling a product incorporating fish flour has not yet been faced. Presumably these steps would be similar to those necessary for Incaparina. The source of the supplement will create an additional hurdle, in that acceptance of the word "fish" on the label, problems of new methods of cookery, etc., and overcoming prejudicies will be considerable.

Numbers of exotic proposals are also under consideration, outstanding among which are the potential of microorganisms as food-producers, grazing on coal, crude oil, black liquor from pulp and paper operations, etc. The organisms themselves include bacteria, fungi, and yeasts. Petroles BP, in France, has described work on the fermentation of petroleum fractions to yield yeast protein as a counterpart to the more usual carbohydrate fermentation. This is accomplished by strong agitation and aeration to compensate for the lack of solubility of hydrocarbons in aqueous medium. The potential advantages of such a scheme are immense. World reserves of petroleum are large. Pure protein on the other hand is useful in decagram quantities. It is estimated that the equivalent of the total current animal protein supply could be produced from just 3 percent of the world's annual petroleum production. The widespread existence of refineries and distribution systems for petroleum products would also reduce the problems of transportation and distribution. There is another advantage. Micro-organism culture requires only small teams of specialists and little space. It does not compete for nutritious raw materials, and is independent of sun, rain, and climate. It also has a very rapid growth rate. While a 1,000-lb cow produces 1 lb of protein, the same amount of micro-organisms could produce 2,400 lb of protein. NASA and the Bureau of Mines have put forth yields from 7 to 44 percent from different fractions. Fungi have also been grown on various high carbohydrate substrates, such as blackstrap molasses, sugar beets, manioc roots and citrus molasses in high yields. Algae growing, perhaps even raised on sewage to help solve two problems at once, is a perennial favorite in extracting protein from forage crops like alfalfa, which are more efficient converters of sunlight than conventional grains and vegetables, comes up regularly.

None of these exotic sources of protein is past the pilot plant stage, and most are in the R&D stage. It is doubtful that they can be helpful between now and 1980, or perhaps even 2000. Possibly in the future, they may help if the world's population is ever to approach 8 or 10 billion. Of course, market acceptance has not even begun the testing stage. It is submitted, however, that market acceptance, when starvation is the alternative, might not be as difficult as some imagine.

Where, then, does the most promise lie? The need will be upon us more quickly than we expect and, therefore, we must concentrate on getting the most we can for our money and technical effort. This implies that it is pointless to mount a crash program to develop exotic foods from petroleum, coal, algae, or other far-out sources, as our main effort. Such foods probably will not play any important part in alleviating mass starvation in 15 or 20 years. Secondly, it is almost as pointless to assume that any really different natural food is going to be accepted quickly. There is no question, for example, but that fish flour can be a valuable supplement to human diets, but unless it is incorporated into flour or other staple foods by government fiat, it is highly unlikely to achieve any significant penetration. Work on increasing the productivity of the sea should be continued at a high pitch—electrical grouping of fish into concentrations that can be pumped onboard instead of using nets. The use of electrical fields immediately ahead of a bottom trawl has already proved valuable in bringing certain varieties of shrimp up out of the mud so they can be caught. Simultaneously, of course, studies must be made of the whole ecology of fish life to avoid overfishing and long-term depletion of the resources. The same can be said for fish culture in inland pools and even for similar activities in restricted areas of the ocean. Fish that act as sea pigs capable of foraging on the dilute nutrients that exist in the waters of the sea will also be worthwhile, assuming that they could be used in such forms as fish sticks or sausages in which their actual identity is lost.

The major hope, however, devolves on the soil. Attempts to open new lands to crops will not only cost more than they will yield, but it is clear that almost all of the land that can easily be irrigated or is otherwise suitable is presently under cultivation. It is expected that perhaps 10 percent can be added to the existing arable land area by expanding conventional irrigation. Desalted sea water appears, at the moment, to be far too expensive for irrigation for a long time.

In summary then, the food to feed the world's rapidly increasing population will have to come from crops and animals grown on land that is now in more or less successful production. Vastly increased fertilizer application, pest control in its widest sense, including weeds, insects, and disease, introduction of improved crop and animal varieties and better management practices. While initially, vast quantities of fertilizer will have to be shipped from the developed nations, it is important that new fertilizer plants be built in the areas affected. It has been estimated that the cost of building such facilities will run to about 5 billion dollars. Of course, simply making fertilizer available is not enough. A vast educational program is needed, plus real incentives among farmers themselves to increase their yields. In many cases, especially in the deep back country, there is little incentive to produce more because there is no market into which the small farmer can dispose of his surplus for cash, and nothing to buy with the cash if he had it. He must first be converted from subsistence farming to occasional commercial farming, and to a consumer, if he is to have the incentive to increase his yields.

Looking further into the situation somewhat cold-bloodedly, there is little effect on the economy and nutrition of the majority of countries if the lowest level farmers do not increase their yields immediately. In most countries, there is a relatively small number of commercial farmers who produce the majority of the food and export crops. Concentrating the limited educational inputs on this particular productive fraction will increase the efficiency of information dissemination. Illiteracy is a major hindrance. Fortunately, with fertilizer you can see the results. In Mexico, demonstrations were carried out by the Rockefeller Foundation. Mexican farmers in remote villages who watched the establishment of fertilizer demonstration plots refused to have any of the "veneno" (poison) put on their crops. After a few weeks of comparing their own growth rates with the demonstration plot, they came around asking for some "medicina." Such farmers may not be able to read, but they can see, reason, and count.

An important hindrance to such an expansion program is that the tradition of using credit has not been established to any great extent in backward areas. Small-scale usury, rather than large-scale, low-cost credit is the rule. Animal husbandry and the utilization of land suitable only for forage and pasture must be greatly expanded in quality. In an experiment in San Juan, Puerto Rico, the use of nitrogen fertilizer on napier grass at the rate of up to 800 lb. per acre—far higher than you would be able to use in the temperate zone—has resulted in putting weight on steers at the rate of 2 lb. of beef per lb. of nitrogen added, which works out to about 10 cents worth of nitrogen per lb. of beef. These gains came from land that is probably unsuitable for any other type of food production.

Increasing production by agriculture in the ways outlined above is not a glamorous job. It requires great inputs of grubby, very ordinary activity, including lots of sweat. The level of technology needed is uninspiring. When we speak of educational requirements here, for example, we are not talking about Ph. D.'s but about carpenters, mechanics, and plumbers. In some communities, if a tool needs a new nut or gasket it cannot be repaired. Production in some of the backward areas could be doubled simply by introducing steel hoes to replace the pointed sticks they now use. In many areas of the world even the scythe is unknown. Plowing with draft cattle will increase production over hoes, but plow design is critical. Undernourished draft cattle are not tractors. Labor-saving devices requiring large capital expenditures are not necessarily desirable, but tools to allow a better job to be done very definitely are.

Summing up, here are the needs and prospects: the population of Africa will double by 2000 A.D., increase by 150 percent in both the Near and Far East, and treble in Latin America. To maintain the present inadequate diets, the food supplies will also have to increase in the same proportions, at annual increase rates of 2 percent, 2¾ percent, and 3¼ percent, respectively.

The average increases over the past decade met or slightly exceeded these figures. However, most of the gains were made in the first half—from 1955 to 1960. Since then, per capita food production in all four areas has slowly decreased. This decline in production increases means that the easy avenues of increased food production have

been exhausted. From here on, the inputs—technological, capital, and physical—must be increased greatly or the present slow deterioration in diet will continue.

These rates of increase can be achieved technically. This has been proved. That the efforts and inputs now being expended by the underdeveloped countries themselves, and by the developed world on their behalf, are insufficient to achieve them is also evident.

Here are the options: in a nation with a primarily grain-based diet and a population growth of 2¾ percent, it will take only five years without significant increases in total production to drop a 2000 calorie diet to 1750 calories. On the other hand, to increase the grain-based diet by 10 percent and provide a number of feed grains to add just 12 grams of animal protein per day, will require a production increase of almost 20 percent over the same five years. The first route is easy, but it leads to catastrophe. The second is hard, but its end is hope.

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## TESTIMONY OF SARGENT SHRIVER BEFORE THE SENATE SUBCOMMITTEE ON EXECUTIVE REORGANIZATION

Mr. CLARK. Mr. President, Sargent Shriver recently appeared before the Senate Subcommittee on Executive Reorganization which has been holding hearings on the problems of urban America. His testimony is an eloquent and heartfelt statement of the problems of the poor and of how these problems must be resolved before we can call America a true democracy. As Mr. Shriver puts it:

Democracy means more than giving every man a vote, because many of the problems we face today will never appear on a ballot: welfare regulations; code enforcement; garbage collection; police brutality. Disenfranchisement takes many forms—and all of them render the poor helpless, vulnerable afraid. Beyond the formal ballot comes the larger mandate of democracy—to give the poor an effective voice in the reshaping of our cities. To give the poor a role, an opportunity to contribute to the rebuilding of our society.

In his statement, the Director of the Office of Economic Opportunity tells of the role of the antipoverty program in trying to bring the poor from their bondage of helplessness and ignorance—a bondage which can, and sometimes does, explode into a nightmare of violence and destruction. He admits that the war on poverty is subject to "policy disputes, contests for control, personality conflicts and incredibly extensive scrutiny, criticism and debate." But he argues, and I believe he is right, "that conflict is a measure of the stake which the entire society now recognizes it has in the effective conduct and successful conclusion of this war."

Mr. President, I ask unanimous consent that Mr. Shriver's two statements be inserted in the RECORD at this point.

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

TESTIMONY OF SARGENT SHRIVER, DIRECTOR, OFFICE OF ECONOMIC OPPORTUNITY, BEFORE THE SENATE SUBCOMMITTEE ON EXECUTIVE REORGANIZATION, AUGUST 19, 1966

Mr. Chairman, gentlemen; It has been said that a nation's character may be read in the streets of its cities.

In recent months and weeks I have walked the streets of many of America's cities. If our national character is to be read in these streets we must all bow in shame. They speak of neglect and heedlessness. They are dirty and crowded. They are dehumanizing and, as we have learned during the hot summer months, brutalizing and cruel.

Why is this? For the most part our cities have not changed very much in the past generation. Urban renewal has transformed some few acres. New towers, with skins of glass and aluminum have taken the place of last century's brick and stucco. Massive public housing projects rise where yesterday's tenements squatted. But on the whole the streets of today's cities are much as they have been throughout our lifetime.

What then is so different? It must be more than the brick and mortar. More than the Summer heat and the absence of trees and parks. Even more than the crowds and the choking traffic. All these were present in the past and we took a kind of perverse pride in them. We said they typified our vitality. They were part of our young, energetic spirit.

That is precisely what is different and shameful. The spirit of our cities. Their crushing weight on the people who inhabit them. For in 1966 our cities have become prisons for the poor, the jobless, and the discriminated against. They have become breeding grounds of discontent and frustration; not so much because they are noisy and unpleasant; but because there is no exit for most of those who live there.

When last century's immigrant came to the lower east side of New York, he and his family lived in a crowded tenement. His children played on a hot city street. Poverty and disease were his neighbors. But he also knew that despite obstacles and discrimination; if he worked and saved and succeeded, as the American dream told him he could, he could get out, move away, find a better life in a more pleasant place. And most often he did.

Today, the people who live in these same homes on these same streets are, for the most part, stuck there for good. They are black. Or they are Puerto Rican. They are Mexican-American or they are just poor. The suburbs are locked to them. The better schools in better neighborhoods are barred to their children. The buses don't penetrate to their streets. The hospital is typically miles away. And the nearest park or pool or place to play is beyond their horizon.

I do not mean to minimize the physical decay and blight of our cities. Secretary Weaver has addressed himself thoughtfully and well to these urban phenomena. But my first concern; my overriding responsibility is to the people of our cities; to the blight that has infected their lives. And it is to this spectrum of human problems and to the hope for their solution that I would like to address myself today.

A well known American clergyman and an official of the county government of Los Angeles flew over Watts recently. Looking down upon the city below, the clergyman said, "That couldn't possibly be a slum. The houses look neat and clean; there are trees and gardens. Something else must have caused those riots."

This is precisely my point. Watts is not the typical stereotype of an urban slum. Yet its people are. They have been forced into an enclave from which there is no escape. They have been cut off from basic services; transportation, recreation, health, justice, and quality education.

They lack political power. They lack economic power. And they lack internal organization and leaders who are responsive to their needs. They have been victimized by inadequate local investment in education and essential facilities.

Discrimination, abandonment, the flight to the suburbs, the withering of the tax base have turned yesterday's teeming melting pot into a cistern.

It is easy to be angry about our cities. Easy to be ashamed of what they tell about the quality of our nation's character. In the wake of this summer's violence, newspaper after newspaper has suddenly discovered that there is a national disgrace right in its own profitable market area. They have published burning editorials with titles like, "Is the nation losing War in Ghettos?", "Can we say Wait Baby Wait?" They call for immediate, massive infusions of money for rehabilitation and repair. And they are right.

But money alone is not the answer any more than our good intentions are. What is required, right now, is a better, quicker, more intelligent way of filling the needs of the people who live in our city slums.

If you were to ask me, do we need more jobs, or more hospitals, or more housing, or better schooling, or more lawyers and doctors and social workers, of course, my answer would be Yes. We need all of these things. And more. And now.

But one of the most profound discoveries we have made in the poverty program—is that how you do things is as important as what you do—or even when you do them.

And we have, with the funds at our disposal, attempted most profoundly to influence how things are done. We decided at the outset that our appropriations would be best expended as a catalyst to demonstrate that massive influxes of money, past, present, and future, do not alone constitute answers. Any more than massive programs of slum clearance constitute urban renewal. Or massive infusions of foreign aid guarantee world peace.

The approach upon which we have staked our very existence—is the solution our country started off with—the solution of Democracy. As an attack on poverty it is an experiment. It is a gamble. But, it made sense in 1776, and it makes even more sense to me today as a solution for the city and its problems.

So, if you were to ask me for my diagnosis of the problems of the city, I could—with the help of others, produce all the learned texts you need on upward mobility, the matriarchal family, the subculture of poverty.

But, if you are asking me how, from my experience, my personal experience with the poverty program we need to deal with the problems of the city, my answer would have to be: Why not try democracy.

Democracy means more than giving every man a vote, because many of the problems we face today will never appear on a ballot: welfare regulations; code enforcement; garbage collection; police brutality. Disenfranchisement takes many forms—and all of them render the poor helpless, vulnerable, afraid. Beyond the formal ballot comes the larger mandate of democracy—to give the poor an effective voice in the reshaping of our cities. To give the poor a role, an opportunity to contribute to the rebuilding of our society.

Democracy has never stood for a set of answers. The most we can hope for is an agreement that there are ways in which men can begin to arrive at answers, test them out, reject them and try again.

This is what we have done in health, in legal services, in education, in job training, in social services, in housing.

And the poor will tell you, it makes a difference to them whether you do things for them, and to them—or *with* them.

When I was in the Peace Corps, I received a letter that comes back to mind at this particular time: Our school has no roof. It would be a ten-dollar project and about one day's labor for two or three Peace Corpsmen to build that roof. Yet we don't do it. If we gave my school a roof it would always be that, a gift, the Gringo's roof. When it needed fixing, no one would fix it. If it takes me a year to talk my neighbors into putting on that roof it will be worth it. Because it will then be *their* roof on *their* school.

That may sound like a far-fetched, exotic example. It is not.

Ironically, for the poor, the one great antithesis of democracy is the Law.

Especially in the ghetto, in the eyes of the poor, the omni-present enemy of partnership, of dignity, of mutuality is the Cop, the policeman, "the man" not because of any action on his part but because he has come to stand for the total complex of forces arrayed against the poor.

Our Legal Services Program is an attempt to make democracy come alive where the odds are toughest. And we are succeeding—not just because of the support of the American Bar Association, the National Bar Association, the National Legal Aid and Defender Association. We are succeeding because we are creating institutions where the law is a friend, an ally, a protector and a champion of the rights of the poor. Just as important—and perhaps even more radical—we are succeeding because we are providing the poor with the same control over their attorneys that the middle class have over theirs.

In Houston, our legal services program has two novel features—features which make a democracy a reality.

First, each neighborhood law office is subject to the control of the people in the neighborhood—the poor people. I don't mean nominal control. I mean they have the right to do everything up to *and including* firing the lawyer from the program.

Second, there is special provision for an attorney whose sole job is to review the complaints of clients and prospective clients against the legal services program for refusing to take their case. His decision is final and he cannot be fired or penalized for siding with the client. We have given the old Latin question, "Who shall watch the watchers" a new twist. Because while attorneys are watching public officials, private merchants and landlords, another attorney is watching them—and the poor are empowered and organized to watch them all. That is true enfranchisement. That is what I mean by partnership—not just a partnership between the poor and the legal services program—but a partnership between the poor and Justice. That's what the rule of law has to mean in a democracy.

Beyond the protection of the law lie the values of life and death, sickness and health. These too must be democratized in a society where high morbidity and mortality are correlatives of poverty. To this very day, there is no hospital in Watts. Only two months ago, the people of Los Angeles county rejected a bond issue to build such a hospital. Yet, how are we to build communities of men when we deny the common bonds of pain, of suffering, of care and of compassion?

But today, in Watts, a beginning is promised—and more than promised. There will soon rise in the heart of Watts an OEO funded neighborhood health center—built by the people of Watts, controlled by the people of Watts, and largely staffed by the people of Watts.

There, we are entering into a new form of partnership—through a system of Tandem training where the technicians and professionals will be paired with local residents to equip them with the skills necessary to provide care and to qualify for the jobs in this new clinic.

It must be that way—for the people in Watts will tolerate no structure built and manned and controlled by outsiders. The decision to cure or not to cure, to treat or not to treat is the power to withhold life itself. Neither they, nor we, would willingly delegate that power to an outsider, an enemy or even a stranger. Like the founders of this nation, they refuse to let paternalism of any kind, political, racial or professional be interposed between themselves and the inalienable right to life itself.

There is one place where some experts will tell you partnership won't work. That's in urban planning, in housing, in physical renewal. But as Justin Herman, the Director of the Redevelopment Agency of San Francisco said:

"To hear architects and designers talk, you would think they have all the answers. They think all urban pressures can be solved by architecture and city design. Of course they can't. In Watts the problem wasn't architecture."

In every ghetto in this country, poor people are doing their own urban planning—scratching and clawing their way through the debris, trucking it off by hand, or push cart or truck—to make what they call "vest pocket parks." These may not be part of the master plan for the city that is taking shape downtown on the drawing boards of the experts. But those youngsters are finding meaning in converting rubbish heaps into stickball courts and basketball courts and areas where the little kids can just run around without danger of being crippled for life by automobiles.

In Phoenix, Arizona, the slums had no paved streets—because in Phoenix, the poor lacked the capital to meet the large assessments necessary. Despite this, the poorest of the poor petitioned the city council to have their streets paved even though they would have to bear the cost. They are willing to bear the cost—and the city fathers, who never dreamed that the poor wanted streets badly enough to pay for them, have worked out an installment plan which makes the financial burden bearable. As an added bonus, and in direct response to requests, the city of Phoenix has accelerated its street lighting program so that the physical danger of unlit neighborhoods will be lessened. The poor don't enjoy being the victims of robbery, or rape or mugging any more than the rich.

In Guadeloupe, a community of Mexican-Americans have built a community center, complete with meeting-hall classroom and recreation room with their bare hands. They sifted the sand, mixed the cement, pressed out each block in a pressurizing machine and cured them in the hot sun. And then they built another building to house their credit union—a credit union which is building up capital on the 10-cent fee per money order which they sell. That's what partnership with the poor can do.

Secretary Weaver is far more conversant than I with the complexity and technicalities involved in city planning and housing rehabilitation. But both of us are in full agreement that buildings alone are not the answer. We both know that brand new housing projects can turn into slums in two to five years.

Housing programs must be coupled with social services. But, as Secretary Weaver and I both know, simply combining social services with public housing is not a cure-all. Because unless there is genuine participation of the members of the community, social services and housing, whether provided separately or in combination, can take the form of a degrading dole.

In "Death of a Salesman," Arthur Miller epitomized Willy Loman's humanity in the widow's comment that there was more of Willie's heart and soul in the cement front steps of his house which he had laid with his own two hands than there was in the entire sum of business deals that Willie had completed in his entire life.

The rebuilding of our cities is more than a physical process. The poor must participate in it. But that will require more than a new corporation. It will require a further democratization of the unions. If the doctors and medical technicians in Watts can accept the tandem team approach labor unions can surely open their gates.

The same approach is necessary in our educational system. Local schools must be subject to local control. We don't have too much local control in this country. We have too little. To make the schools a part of community life we need neighborhood control where parents, interested citizens, volunteers will not be considered outsiders by the professionals who administer the schools.

Head Start has been so popular precisely because it has made the school less like alien territory to be feared and avoided. It has enabled parents to feel confident and responsible for contributing to their child's development and growth because it has required them to do so.

It has erected new lines of communications and contact between professional and lay persons, the school and the community, the parent and the teacher and above all, the parent and the child. The benefit has been reciprocal. School curriculums have been revised, staffs reconstituted, PTA's revitalized, and most important children have found themselves more capable of coping with this strange and crucial environment.

For ultimately, we have attempted to shape that critical span of months into a joint venture by family, child and teacher. A venture that must ripen into a continuous quest for self realization.

We are not submitting a romanticized vision of the poor as the solution to all urban problems. For that, too, would be undemocratic.

Democracy—as an approach to our urban crisis—operates to prohibit any program from being perverted into an instrument of paternalism, of imperialism, of subjugation.

And equally, it operates to eliminate the barriers of tradition, custom, and prejudice—barriers to full participation and full partnership with all levels and units of government, all sectors of the society, and, all groups of concerned citizens.

In consequence, we must begin to disabuse ourselves of the myths and preconceptions that many hold toward private enterprise and the profit motive, toward state and local government, toward volunteers and amateurs.

For there are many forms of profit.

There is no end to the levels of decision making.

And all of us are amateurs as citizens, and volunteers to humanity.

We will not solve the problems of the city by paying people to work forty-hour weeks or sixty-hour weeks or even eighty-hour weeks. Government can't make democracy work. Government can't make the city vital. Only the people, and their institutions, industry and its resources, the churches, the labor unions, the civil rights groups can.

It is now a matter of record that we have succeeded in mobilizing the private sector.

We have enlisted American Business to run Job Corps Centers—GE, IBM, Zerox, ITT, RCA, US Industries, Burroughs and more.

Leaders of industry are being trained in the problems of poverty at the University of Ohio.

Labor leaders and representatives of the labor movement are being trained at the University of West Virginia and at Pennsylvania State University.

Leaders of the Agricultural community are being trained at the University of Wisconsin and the University of Missouri.

I am told that the War on Poverty has stimulated more interreligious work, more interracial work than any program in recent history. One of the outstanding symbols of this is an organization called WICS—Women in Community Service. For the first time ever, four national organizations—United Church Women, National Council of Jewish Women, the National Council of Catholic Women, the National Council of Negro Women—not as four organizations but as one.

WICS, with its 27 million members, has handled the application of each of the 50,000 girls who has applied thus far, personally screened 8,600 of them, and provided individualized assistance to each of the 2,600 of them presently in the women's Job Corps. As if that were not enough, WICS is now beginning a broader program of education, recreation and job placement in conjunction with our community action agencies.

Here are some other examples:

—In Walla Walla, Washington, the Catholic family and child services, the United Church Women, and the Unitarians have received anti-poverty funds to run day care centers together for children of migratory workers.

—In Michigan and South Carolina, Catholic and Protestant groups joined forces in programs to aid migrants.

—The New Mexico State Council of Churches received 1.3 million dollars to establish education centers throughout the state to improve the educational level of migrant and seasonal agricultural workers.

—In San Antonio, Texas, a Jewish synagogue rented a hall to a Lutheran church group to conduct pre-school classes for kids from a predominantly Catholic area!

The YWCA is running a Job Corps Center for girls in Los Angeles.

One other project—Project Star—is symbolic of the interreligious nature of this effort. In a state where less than 5% of the population is Catholic, the Catholic Diocese of Natchez and Jackson is running a program to provide basic literacy education, skill training, job counselling, testing and guidance to 5,000 persons of all races and religions from all parts of the State of Mississippi.

On the board of Star sit Negroes and whites, priests and ministers, civil rights leaders, and representatives of both business and labor.

Upward Bound—has involved 90 private colleges and universities, 32 private secondary schools in providing special remedial education, tutoring, and counseling to over 20,000 poor youths who show college potential, regardless of past academic record.

This represents a small sampling of the way in which we have undertaken to implement Congress' mandate to mobilize all the resources of the nation in this war against poverty. It also accounts in part for the fact that the OEO program has been the subject of many policy disputes, many contests for control, many personality conflicts, and incredibly extensive scrutiny, criticism and debate.

What has not been perceived is that controversy is an index of involvement—and that conflict is a measure of the stake which the entire society now recognizes it has in the effective conduct and successful conclusion of this war.

We can expect to see continued accusations of scandal—and continued inquiries into fiscal accountability. Responsible reporting has dispelled these charges and disclosed the extent to which many of these investigations were in fact a cover for persecution and harassment. In fact, the Christian Science Monitor, after an exhaustive survey of our programs reported this month that "There hasn't been even the whisper of a scandal in the administration of the overwhelming majority of programs across the country."

But in the charges of scandal and fiscal accountability, we must not lose sight of the larger scandal that the mere persistence of poverty constitutes—and of the shocking lack of genuine accountability and full responsiveness that have emerged from the long chronicle of past neglect, disinterest, rejection and abandonment now just beginning to unfold.

The nation is indebted to each of you for launching this inquiry into the crisis of the city. For there is an old saying that The truth shall make men free. Poverty is a form of slavery, of bondage, of involuntary servitude. And the crisis of our cities is the crisis of the poor.

Therefore, I have not come before you today with any great sense of patience or detachment or objectivity about the problems of the city. Having just visited Detroit and Houston and Chicago and Atlanta and New Orleans and Miami and New York, I can tell you that the poor do not view the problems of the city with patience, or detachment or objectivity. Because they bear the chief brunt of those problems.

The poor are the special constituency of my agency, of the Office of Economic Opportunity. So I stand before you today frankly as an advocate—as their advocate—partial, biased, impatient. Not so much afraid of this violence and discontent as I am of our temporizing, timidity, and lack of faith in democracy.

T. S. Eliot wrote:

"Between the idea
And the reality
Between the motion
And the act
Falls the Shadow.
Between the conception
And the Creation
Between the emotion
And the response
Falls the Shadow."

And he ended that poem:

"This is the way the world ends
This is the way the world ends
This is the way the world ends
Not with a bang but a whimper."

I just returned yesterday from Watts—from a parade marking the renaissance of the sense of community, exactly one year after the riots of last August. And T. S. Eliot is right. There is more to be feared from the whimper than the bang.

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ADDITIONAL TESTIMONY OF SARGENT SHRIVER, DIRECTOR, OFFICE OF ECONOMIC OPPORTUNITY, BEFORE THE SENATE SUBCOMMITTEE ON EXECUTIVE REORGANIZATION, AUGUST 19, 1966

Mr. Chairman, gentlemen, I wish to express my thanks to the Committee for rescheduling your program so that I could be here this morning. But since you all have had an opportunity to read the statement I submitted three days ago, I am not going to take the time to repeat it today. I do want to re-affirm that statement and to emphasize my deep commitment to the two cardinal principals enunciated in it:

First: The crisis of the city is the crisis of the poor. There is no crisis on Park Avenue.

Second: Democracy based on full participation of the poor offers the only viable solution to that crisis.

At OEO we believe we have made a beginning in developing answers to the problems of the poor, based upon both these principles. We have pointed out some new directions. We have stimulated the application of the democratic process to the problems of the poor. But the scope of our efforts as well as the process itself calls for deepening, more sustained commitment on the part of all of us.

The Demonstration Cities Program now before Congress can make a major contribution in this direction. First, it will pump in new resources. Second, it will coordinate physical and human planning in the cities. And third, it will increase the flow of local resources and focus them on the underlying causes of the urban crisis.

The Rent Subsidy Proposal is another essential new program which I urgently recommend that you endorse and enact. At 114th Street in Harlem we have been conducting the first rehabilitation and rent subsidy test program in the United States. This project will restore 37 dilapidated tenements, housing 1,600 people. None of the families will have to leave the neighborhood while the work is in progress, and when it is completed late next year, they will all be able to move back into well planned and modern apartments, vastly different from those they left, and with rents within the limits the present tenants can afford.

Also I wish to subscribe to and emphasize the 14 points Secretary Weaver outlined when he testified Tuesday. We need action on all the programs he mentioned.

Yesterday, Mr. Chairman, you suggested that I discuss briefly the various new programs originated by OEO precisely because they are so new and relatively unknown.

I am glad to do this, and to facilitate the process I submit for the record an itemized one-page listing of the major parts of the OEO program.

This up-to-date summary reveals that in our first months, OEO has:

Created nearly a thousand community action agencies in urban and rural areas where 70 percent of the nation's poor live;

Involved 8 million poor through their direct participation in our programs;

Provided work and training opportunities for over 600,000 poor in 1966, with 365,000 in Neighborhood Youth Corps alone;

Established 160 legal services projects in cities and villages, on Indian reservations, and in migrant camps. These legal service programs are now available to 700,000 poor families. 37 of the 50 largest cities have received OEO Legal Services grants;

Established Head Start, the first national child development program reaching over half-a-million poor children and their families in each of the past two summers,

and another 200,000 during the regular school year;

Recruited the largest army of part- and full-time Volunteer Americans in peacetime history. In Head Start alone, more than 100,000 people have donated time and talent;

Recruited, trained and put to work more than 3,000 VISTA Volunteers;

Created 600 neighborhood social service centers, of which 360 are urban multi-purpose centers where a range of services is available and readily accessible to meet the total needs of the poor;

Opened 107 Job Corps Centers in which more than 27,000 young men and women are receiving training for productive careers;

Put college within the reach of more than 20,000 disadvantaged teenagers through Upward Bound programs in 244 colleges, universities and secondary schools;

Established neighborhood health service centers in Denver, Boston, New York, Chicago, and Los Angeles, and received requests for 75 more;

Helped 4 million older Americans avail themselves of Medicare benefits through Operation Medicare Alert;

Brought adult literacy courses to 300,000 adults; and

Created new careers for over 50,000 of the poor who are now working as health aides, legal aides, neighborhood block workers, teachers' aides, recreation assistants, and others.

This is most of what has been done. Now, let me describe some of what still remains to be done.

First, there is a great backlog of explicit demands for participation in our own programs. In addition to these existing demands we pointed out on June 21st to the Senate Labor and Public Welfare Sub-Committee, that our program in Fiscal 1967 will reach only 30% of the 2.5 million poor children in the 3 to 5 age group who comprise the Head Start universe of need.

We pointed out further that beyond Head Start there are about 8 million poor children between the ages of 6 and 15. Our programs are reaching only 300,000 of this group, and then only with tutorial programs. But fortunately, the new Elementary and Secondary School Education Act is reaching thousands more.

We pointed out that among our nation's youth there are three million impoverished 16 through 21 year olds. With Job Corps, and Neighborhood Youth Corps, we should reach 20% of the in-school universe of need and 40% of the drop-outs.

We pointed out that there are 9.5 million poor Americans between the ages of 22 and 54 of whom we estimate some 4 million could benefit from some work and vocational training. We will be able to reach only 6% of this universe of need in 1967.

We pointed out that there are 5.4 million older Americans in poverty. Through all of our programs we are reaching less than 5%, on any consistent basis.

Mr. Chairman, 50% of the poor in these universes of need live in America's cities. This is an indication of the magnitude of the job still to be done.

But let us not fool ourselves. No program we design, no amount of resources we commit will prevail if we do not open our ears to the voices of the poor. The urban ghettos of this nation are crying for help in a voice desperate to be heard and to be understood.

In Watts a year ago, we had not heard. Or if we heard, we did not heed. When we finally listened, it was to the crack of exploding firebombs and sniper fire.

Last Sunday, on the first anniversary of the Watts revolt, I had the great privilege of riding through those same streets. I rode in an open convertible through thousands of cheering Americans—men, women and children of the ghetto. There was not a police uniform in sight. And where gun barrels had poked down from the roof tops of 103d Street—the charcoal alley of one year ago, I saw the hands of children waving.

I was deeply moved—at being chosen the Marshal of that parade and of being received with such open heart.

But my visit last Sunday and another to Los Angeles a month earlier, were not all to musical fanfare and the roll of parade drums. In the privacy of a back room on Central Avenue, I listened for hours to some of the leaders of the ghettos.

Here is part of what the ghetto told me. Here is one of the angry voices of Watts: "Sargent Shriver, you listen and listen good. I'll tell it to you exactly like it is. We want to run the jobs. We want to run the programs. It is our lives. It is our future. We have all kinds of agencies in our government. We got the Agriculture agency to represent the farmers. We got the Department of Commerce to represent big business. We got Health, Education and Welfare to represent school teachers and social workers. But, who helps the poor?

"You say lift yourself up by your own bootstraps. I just want to know how many of you lift yourself up by your bootstraps. That's one of them cute phrases I always hear from those good white folks.

"If you can search yourself and say that you didn't get no help from nobody and got where you are today . . . go join God.

". . . How much do you think the human mind and body can stand? Sure, they will burn the town down. They know it's not goin' to help them. But what choice do you give them? Nobody listens. I say listen to us all. We need help.

"You think it is something nice being on welfare and having a social worker come snooping under your bed, to see if you got a man there. If don't leave no dignity. You know it would be real nice if some of you people could change yourself and be poor for awhile. You see what the poor people have to go through.

"Who wants welfare? Who wants to have to have someone look down their nose at you all the time to give you a piece of bread? That's enough to make you want to blow your *own* brains out.

"So why don't you listen—you know, like turn your hearing aid on while you can."

Gentlemen, that voice was talking to me—and it was talking to you.

A year ago, the cry was: "Burn, Baby, Burn."

Now, the ghetto is saying to itself and to us, "Learn, Baby, Learn."

They are saying that we must get the program down to the streets—the jobs, the housing, the education, the health and the justice down to them in the streets. Give them responsibility and a part to play—and the streets of our cities will come alive again.

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## THE RICHES OF THE SEA SHOULD BE PLACED UNDER UNITED NATIONS ADMINISTRATION

Mr. CLARK. Mr. President, in the Saturday Review of June 18, 1966, Clark M. Eichelberger, the widely respected chairman of the Commission to Study the Organization of Peace, a research affiliate of the United Nations Association of the U.S.A., has made a dramatic and imaginative proposal that deserves careful study by the administration, the Congress, and the informed public.

His proposal is that the riches of the sea be used to supply the United Nations with a steady income for its peacekeeping activities. The United Nations would have the power to issue licenses to extract mineral, animal, and vegetable wealth from the sea. The licensing fees would provide operating expenses to the United Nations, and would also provide a long-needed source of funds to help underdeveloped nations.

Mr. President, I ask unanimous consent that Mr. Eichelberger's article appear in the RECORD at this point. I also ask unanimous consent that an article by William D. Smith from the New York Times of July 17, 1966, entitled "Oceanography: The Potential for Profit Is as Big as the Sea," be printed in the RECORD.

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

### THE PROMISE OF THE SEAS' BOUNTY

(By Clark M. Eichelberger)

The last great frontier for natural resources on our planet is the sea. It also may be the richest. Indeed, fragmentary exploration to date indicates that the wealth that ultimately can be obtained from the five-sevenths of the earth's surface covered by the sea may be almost beyond comprehension.

We know, for example, as noted oceanographer Roger Revelle stated in *SR* October 3, 1964, that lying on the deep sea floor are "incredibly large quantities of black, potato-shaped nodules" which contain manganese, cobalt, copper, and nickel whose gross recoverable values are estimated at $45 to $100 a ton. We know of nodules in shallow water off Southern California that are thought to contain as much as 60,000,000 tons of phosphatic materials; of titanium-bearing sands believed to occur off Florida, India, Japan, Australia, and elsewhere; of the mining of iron from magnetite-rich sand in shallow waters near Japan (7,000,000 tons of ore were extracted from the floor of Tokyo Bay in just one four-year period); and of diamond-bearing gravels off the southwest coast of Africa that yield about five carats per ton—five times the average in diamond fields inland.

This is only a sampling. But developments to date demonstrate that, unless action is taken soon, the world may face a power struggle for resources of the sea that could equal or exceed the struggle for the resources of Africa and Asia in past centuries. Consequently, almost nine years ago the Commission to Study the Organization of Peace, research affiliate of the United Nations Association of the U.S.A., declared, "With respect to the bed of the high seas beyond the continental shelf and outer space, which are outside the jurisdiction of any state, we urge the General Assembly to declare the title of the international community and to establish appropriate administrative arrangements."

In 1961, the U.N. General Assembly, at the suggestion of President Kennedy, took some important steps in this direction in regard to outer space. It declared that "international law, including the charter of the United Nations, applies to outer space and celestial bodies," and that "outer space and celestial bodies are free for exploration and use by all states in conformity with international law and are not subject to national appropriation."

In 1963, the General Assembly further called upon all states "to refrain from placing in orbit around the earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, installing such weapons on celestial bodies, or stationing such weapons in outer space in any other manner . . . ." It also adopted a declaration

of legal principles for exploration of outer space.

These steps point the way to possible parallel action by the U.N. regarding the sea.

There are compelling reasons for the U.N.'s taking such steps, some of which apply with equal force to the control of man's adventures in outer space. With the population of the world increasing at an explosive rate and with the rapid advance in industrialization, the food supplies and the mineral resources of the sea will be eagerly sought. The majority of nations do not have the technological capability to launch satellites or to gather minerals on the deep sea floor, and many of them cannot compete effectively for the fisheries of the high seas. However, the less advanced should be able to share in these resources as the common property of the world community.

In the absence of clear rights and boundaries, nations will unilaterally attempt to appropriate these areas for their own use. Such claims will reduce the area held in common by the world community and frequently lead to conflicts between nations—as witness the growing number of controversies over fishing rights, and disagreements that have accompanied the appropriation of the atmosphere and the sea for nuclear testing.

Resources such as fish, minerals on the ocean floor and the surface of the ocean, as well as the radio spectrum in outer space, can be exploited simultaneously by more than one firm or nation. But under these conditions, exploitation tends to be accompanied by rapid depletion, economic waste, and conflict.

Since the United Nations is not a full-fledged world government, how can it persuade nations to accept the proposed regime for the sea?

A sanction may be found where self-interest and the common good coincide. There are, for example, some fishery resources now so depleted that it would be to the self-interest of the few nations involved to agree to international control; and in the Antarctic, depletion of at least one species of whale has threatened that species with extinction. As for the untapped mineral resources of the deep sea, nations might prefer a U.N. regime to an anarchy under which they could not be certain of access.

Through cooperation, nations may actually be able to expand resources of the sea as they could not do themselves. Contrary to popular belief, as Christy and Brooks have said, there are regions of the ocean that are virtual deserts, ". . . regions where the plant nutrients have settled out below the euphotic zone. In such areas, it may be possible to establish artificial upwellings or to improve fertility by other means." Under such circumstances, it would be possible to "herd" fish—the kinds of fish that men prefer to eat. Obviously, no one nation is going to undertake such an effort, but it could be undertaken through the U.N.

The mineral resources of the sea are relatively unknown compared to fishery resources. But the potential wealth in the nodules referred to earlier is well known. At least one boat is being fitted out in the United States to experiment with mining them. Other countries also are interested. However, nations may be reluctant to exploit such mineral resources if they are unsure of title. Further, uncontrolled efforts to extract these resources may disturb conditions in which fish thrive; and might interfere with the Atlantic cables. All are reasons for international ownership and control.

United Nations control also could reduce the danger of pollution. As population grows, man is more and more responsible for, as well as the victim of, the pollution of the atmosphere and water. Unregulated use of the air and the sea will increase the danger of contamination. There is also danger of contamination of the sea by radioactive material, pesticides, and other poisons on land. Contamination of the shared envelope of atmosphere is a matter of concern to all peoples.

Moreover, United Nations' title to operations in the sea could forestall a possible new military race. Without an international agreement, the military of each country may feel compelled on the basis of self-interest to carry defense to any new frontier opened to man. As Navy Commander M. Scott Carpenter said at a recent meeting of aerospace engineers and scientists at Cape Kennedy, "one of the greatest hostile threats to this country might come from beneath the surface of the sea." The Soviet Union, and possibly other countries, may entertain the same fear.

Under the Antarctic Treaty of December 1, 1959, twelve governments, including the United States and the Soviet Union, agreed that Antarctica shall be used for peaceful purposes only. Military personnel or equipment may be used only for scientific research or other peaceful purposes. Thus there is precedent for an agreement, both in this and the U.N. General Assembly action in 1963 calling upon nations to refrain from placing in orbit nuclear weapons or other weapons of mass destruction. (Obviously, this recommendation would not affect the Polaris submarine or present conventional surface military vessels.) Some have suggested, too, that perhaps the U.N. should go a step further and institute a monitoring system to detect and report to the world underseas military activity.

But one of the most challenging reasons for United Nations control and administration of the sea is to provide the U.N. with an independent income. Some member nations now are reluctant to give the U.N. resources adequate even for its immediate, modest program. Despite the authorization of the Security Council for the peacekeeping force in Cyprus, for instance, it is only with the greatest difficulty that, at the end of each three-month period, the Secretary General obtains enough in contributions from individual states to maintain this force. Yet the work of the United Nations must be expanded many-fold if it is to meet the responsibilities that an ever more complex world has thrust upon it, including the great question of disarmament. Nations should not be excused from paying much larger assessments needed to maintain the organization—which to many powers means but a small fraction of their military budgets. However, assessments of the individual members should be greatly agumented by an independent source of income.

For the United Nations to have its own source of income and a vast area to administer would give it the kind of strength and maturity it needs to meet the tremendous problems of the future. Obviously, estimates differ widely as to the income that could be realized from U.N. licensing of resources in the sea and outer space, but the United Nations would gain enormously.

At the same time there would be provided a long-needed source of funds to help underdeveloped areas. Few nations today are in a position individually to exploit resources of the sea, even were there U.N. licensing and control. But if the sea were administered as the common property of mankind, all peoples could share it—for part of the licensing fees charged by the U.N. could be used to assist the nations now most in need of help.

How could all this be accomplished?

The Commission recommends that a specialized agency be created, the United Nations Marine Resources Agency: "This agency should control and administer international marine resources. It should hold ownership rights and grant, lease, or use these rights in accordance with the principles of economic efficiency and the well-being of mankind. It should distribute the returns from such exploitation in accordance with the directives issued by the U.N. General Assembly."

The agency should operate with the efficiency of the International Bank. It must inspire the confidence of those economic interests that would be dependent upon it.

As long ago as 1953, it is interesting to note, in an International Law Commission report to the General Assembly, the possibility of a specialized agency was contemplated, although with a much more limited purpose. Envisaged then was the establishment of an international authority within the framework of the U.N. with the power of adopting binding regulations for protecting the fishing resources of the sea against waste or extermination.

The broadcast of the *Internationale* from Luna 10 in early April indicates how brief the time may be before Soviet and American nationals make a landing on the moon. It points up the urgent need of implementing the 1961 resolution of the General Assembly that the celestial bodies are not subject to national appropriation.

The *New York Times*, in an editorial last April 5, suggested that there should be agreement that the moon is the property of all mankind and open for research by scientists of all nations. The editorial concluded, "Exploitation of any economic resources found on the moon could well be made a monopoly of the United Nations, with the profits used to finance the U.N.'s peacekeeping, welfare and economic-development activities. The conquest of the moon should serve to bring men together, not to divide them still further or to provide new grounds for conflict."

This is the spirit in which both the riches of the sea and man's adventure into outer space should be approached. But this spirit can be translated into action for the benefit of all mankind only if we encourage the United Nations to act now, with both the wisdom and foresight that must be applied to the problem.

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The Seventeenth Report of the Commission to Study the Organization of Peace, on which this article was based, discusses a number of important recommendations for strengthening world order. They include:

The United Nations must become truly universal in membership so that all political units may play their parts in a world in which all are bound by law.

Adjustment must be made between the principle of sovereign equality of states and power.

The extensive lawmaking process which is now to be found in the United Nations must be expanded so that the General Assembly moves toward becoming a true legislative body in the international sphere.

Machinery for peacekeeping, peacemaking; and collective security must be augmented.

Heroic measures must be taken to arrest the growing gap betwen the developed minority and the undeveloped majority of nations.

The United Nations' Security General must be protected from interference in the great responsibilities and leadership opportunities that have been thrust upon him.

The author wishes publicly to acknowledge the contribution of David B. Brooks and Francis T. Christy, Jr., of the staff of Resources for the Future, who were responsible for much of the material in the study on the resources of the sea, and have been liberally quoted in this article.

The Commission's Seventeenth Report will be the basis of three half-hour programs to be released this fall by National Educational Radio, with assistance from the Johnson

Foundation, which also was host to committee members in Racine, Wisconsin, during drafting of the report. Persons interested in obtaining texts of the report should contact the Commission to Study the Organization of Peace, 866 United Nations Plaza, New York City, 10017.—C. M. E.

"This great area covering five-sevenths of the globe contains abundant resources of food and minerals. The sea has been the means of communication by ship. Aggressive war has been waged by surface ships and submarines. Cables have been laid in the sea. Fish have been an important source of food. Man's greed is threatening this source. However, the bed of the sea where great resources are presumed to rest has scarcely been explored . . .

"Both the sea and outer space involve vast opportunities for weather reporting and communications. Both provide means for transportation and adventure. Both may contribute to our knowledge of how the universe was created. . . .

"In the absence of clear rights and boundaries, nations will unilaterally extend their claims to these shared areas or attempt to appropriate the areas for their own use. Such claims reduce the area held in common by the world and frequently lead to conflicts between nations. The demarcation between areas of national sovereignty and world community rights must be clear. . . .

"No one can estimate now what the income to the United Nations might be from its granting licenses for the exploitation of the resources of the sea and the revenues which should accrue to it from outer space communications. It is estimated, however, that the amount of money to be realized certainly should make an important contribution to the budget of the United Nations. Furthermore, it should help pay for the expanded program of technical assistance to the developing states. In this way nations not technically able to take advantage of explorations and development of the sea and outer space would nevertheless receive some benefit in the form of technical assistance made possible by the exploitation of these common property resources."—From the Seventeenth Report of the Commission to Study the Organization of Peace.

[From the New York Times, July 17, 1966]

SEARCH YIELDS CHEMICALS, OIL—AND EVEN DIAMONDS

(By William D. Smith)

The sea, man's first frontier, has become his last major earth-bound challenge. It has also become an important goal in the search for investment opportunity and profit.

The oceans are capable of feeding the world's hungry, providing vast quantities of oil and supplying needed minerals, chemicals and drugs, according to even the most pessimistic exponents of oceanography.

"Within 50 years, man will move onto and into the sea—occupying it and exploiting it as an integral part of his use of this planet for recreation, minerals, food, waste disposal, military and transportation operations, and, as populations grow, for actual living space," says Dr. F. N. Spiess, head of the Marine Physical Laboratory of the University of California's Scripps Institiution of Oceanography.

Many oceanographers would say that Dr. Spiess was being far too conservative.

The challenge of extracting the sea's wealth is a mighty one but the potential rewards for both Government and private enterprise are monumental.

RETURN ESTIMATED

The National Research Council of the National Academy of Sciences, in a deliberately conservative study, concluded that the direct return on a 20-year investment in oceanographic research will be more than three times larger during those 20 years alone than if the same money had been invested at 10 per cent compound interest.

The opportunities have not been lost on industry. John H. Clotworthy, vice president of the Westinghouse Electric Corporation's Defense and Space Center and general manager of the company's underseas division, recently told a congressional subcommittee:

"A major thrust into the ocean could be expected to become a recognizable element in our gross national product and help satisfy the future need for new employment opportunities in both the professional and labor markets."

American industry and Government already have a substantial stake in the oceans. Current spending on all things connected with the seas has been estimated at nearly $10-billion a year. This figure includes about $4-billion for military projects, $2-billion for offshore oil and gas, $2-billion for marine recreation and $400-million for commercial fishing.

Underseas mining and extraction of chemicals from sea water is a $250-million business. Nonmilitary research accounts for another $250-million, with $141-million of this total coming from the Government and the remainder from industry and the universities.

Unfortunately, the bulk of this huge stake in ocean activities is contributing very little toward increasing our knowledge of the seas. With the major exception of the Navy's antisubmarine warfare studies and Deep Submarine Systems Project, much of the military spending is along rather prosaic lines.

VACUUM VERSUS OCEAN

In terms of actual funding for research purposes, national expenditures are on the frugal side. According to Senator WARREN G. MAGNUSON, Democrat of Washington, the Federal Government "is spending 36 times more on vacuum (space) than it is on the ocean."

The Government's interest would seem to be picking up, however. President Johnson, speaking at the commissioning of an oceanographic research vessel in Washington last week, called for greater efforts to extract the riches from the world's oceans.

At the same time, the President's Science Advisory Committee issued a report on "Effective Uses of the Sea" that recommended a doubling of Federal support for marine science and technology over the next four years.

Spending by private industry is contributing comparatively far more to solving the problems of the ocean than it has to space. In terms of actual money spent, however, it is still no great sum by today's standards.

As with all frontiers, there are pioneers trying to get in on the ground floor, or in this case the ocean floor. There are at present more than 600 companies involved in one way or another in probing for the ocean's riches.

They range in size from such corporate giants as the Standard Oil Company (N.J.), the General Dynamics Corporation and Litton Industries to a host of small specialty concerns such as Alpine Geophysical Associates, Inc., and Ocean Resources, Inc.

Money is already being made both by companies extracting the sea's riches and by concerns making the equipment needed to get at these riches.

More than a billion dollars in oil, seafood and minerals was taken from the sea by American companies in 1964, according to the latest Bureau of Mines Minerals Yearbook. This is just the trickle before the flood, according to every informed source.

MUCH RESEARCH NEEDED

To increase the flow, a great deal of basic research is needed in materials, undersea vehicles, instruments, communications and tools as well as looking into the physiological and psychological problems man will face under the sea.

The oil and gas industry has reaped the greatest harvest from the sea, but it has also put in the most money and energy. The United States oil industry has invested about $2-billion in offshore leases, exploration, drilling and production facilties last year alone.

The oil industry recognized the value of the minerals below the ocean floor about 30 years ago. Although considerable oil was recovered from below the ocean floor in the late nineteen-fifties, it was not until this decade that major recoveries were made.

In 1960, some 8 per cent of the free world's oil supply was pumped from beneath the ocean. Last year, offshore oil wells pumped 16 per cent of the free world's supply. Informed industry sources predict that this figure may increase to 40 per cent by 1975.

ALL OIL FROM SHELF

All of the oil from the sea so far has come from that area called the Continental Shelf. This is the area, contiguous to all major land masses, that formerly was dry land itself. It varies in width and depth of water but in many ways still resembles dry land.

Before the oil companies push into deeper waters and begin trying to tap the ocean's depths for petroleum and gas, whole new families of equipment must be developed.

Oilmen from all the major companies are presently devising ways to eliminate the familiar platform drilling rig and locate the wellhead and possibly the production equipment on the ocean bottom.

TRICKY TECHNOLOGY

Drilling of wells on the ocean floor has been tried on an experimental basis under very special conditions. Lowering and installing of equipment on the ocean bottom requires sophisticated techniques, including underwater television to guide the operators. This is just the beginning, though, for once the well has been installed it must be controlled through remote devices.

Lack of the proper tools is also holding back the mining of the ocean, although there are some notable exceptions. An exotic one is off the coast of South Africa where an enterprising Texan dredges more than 700 tons of diamond gravel daily from the ocean floor. Yields average five carats a ton, compared with one carat a ton from land ore, and most of the stones from the ocean are gem quality.

Closer to home, all of the United States supply of manganese and 75 per cent of the nation's bromine now come from the ocean.

TREASURE IN THE DEEP

This again is just a prologue of what is to follow. As with oil, most of the minerals now being wrested from the sea come from the Continental Shelf. The real treasures, however, lie beyond on the continental slope and in the ocean deep.

Oceanographers have estimated that the sea holds some 50 million million metric tons of minerals. Included in this total are two million million tons of magnesium, 100,000 million tons of bromine, 700,000 million tons of boron, 20 billion tons of uranium, 15 billion tons of copper, 15 billion tons of manganese, 10 billion tons of gold and 500 million tons of silver.

The question of when man goes after this treasure is primarily one of when does the cost of getting these metals from land sources exceed the cost of obtaining them from the sea.

Dr. John Mero, vice president of Ocean Resources, Inc., and a leading authority on undersea mining, said recently, "It would be profitable to mine materials such as phosphate, nickel, copper, cobalt and even manganese from the sea at today's costs and prices.

"And I firmly believe that within the next generation, the sea will be a major source not only of those metals but molybdenum, vanadium, lead, zinc, titanium, zirconium and several other metals."

The corporate pioneers are already at work. Lockheed is working in a joint venture with the International Minerals and Chemicals Corporation and the Bureau of Mines to study ocean mining methods.

The Reynolds Metals Company has an all-aluminum submarine to study the depths. It is also considering private development of a whole system of underwater work capabilities, including underseas barges for mining.

USING THE DESALTING PROCESS

W. R. Grace & Co. is actively studying methods of recovering a variety of minerals from sea water in conjunction with the operation of desalting plants.

Union Carbide is employing Ocean Systems, Inc., in which it owns a 65 per cent interest, in a substantial study of the sea's opportunities.

Although lack of proper equipment is retarding underwater oil and mining activities, it is not because there is any lack of thought being given to the matter.

One of the most active areas is submersibles. The General Dynamics Corporation has for years been a leader in this field. This spring it launched two small research submarines. The first, the Star II, is equipped with an ultra-high-strength hull for operations to a depth of 1,200 feet. The other, the Star III, can descend to 2,000 feet and has an external mechanical arm that can cut wire, close its grip, pick up a pencil or a 200 pound weight and manipulate valves.

General Dynamics is now working on the first nuclear-powered research submarine. The vessel, which is being built for the Navy, is expected to become operational by 1968.

Westinghouse, which also has a long history in underwater activity, operates a charter service that hires out a submersible, a surface support ship, oceanographic equipment and technical personnel, including divers.

BUILT BY COUSTEAU

The Diving Saucer, designed and built by Jacques-Yves Cousteau, is now operated by Westinghouse and is the forerunner of the company's Deepstar family of submersibles. The Deepstars, each capable of holding two or three men, will be able to submerge to hoped-for depths of 20,000 feet.

North American Aviation is designing an underwater vessel called the Beaver, which will be equipped with manipulators capable of using a number of tools.

Possibly the most famous of the research submarines operating is the Alvin, which located the hydrogen bomb that fell into the Mediterranean Sea off the coast of Spain. It was built by Litton Industries for the Woods Hole Oceanographic Institute.

While man is learning about the sea by moving about in submarines, he is also trying to develop stationary submerged shelters suitable for human habitation. The Navy's program, called Sealab, got under way in the summer of 1964, when a four-man crew spent 10 days in a large cylindrical chamber submerged 192 feet deep off the coast of Bermuda.

This was followed by Sealab II, in which teams of 10 men each spent 15 days under water. Astronaut Scott Carpenter was one of the men and he stayed down for 30 days. Plans for Sealab III are well under way.

In addition, the Navy is looking ahead to the construction of an advanced underwater facility for work at a depth of more than 600 feet. It is tentatively called the Seafloor Habitat Complex. The complex will consist of a combination of modular units, including living quarters, a research laboratory and power sources.

The applications of such shelters to undersea drilling and mining are obvious. Their success will also make the day of the underwater city considerably closer.

FIGHT FOR THE MARKET

Producers of titanium, glass-reinforced plastics, higher-strength steels, aluminum and nickel are fighting it out for the market for underseas materials. The Republic Steel Corporation and the United States Steel Corporation have both developed special high-strength steels for the underseas market.

Besides pressure, the sea presents the problem of corrosion. Several of the chemical companies are working on protective coatings at present and it is likely that more will join the study.

Several companies, such as the Goodyear Tire and Rubber Company, are presently involved in a research program to develop anticorrosion compounds.

Another major tether on man's thrust into the sea is the lack of proper instrumentation. Instruments of all sorts are needed to test, explore and control the ocean environment.

Many of the instruments presently being used in oceanographic research have been transferred directly from space and other uses. They are doing the job, but far from perfectly.

Companies such as Honeywell, Inc., Beckman Instruments and Sylvania Electric Products, Inc., are working on devices specifically designed for the water environment, but a great deal more effort is needed in this direction.

It is not just coincidental that many of the companies participating in oceanography are also active in aerospace. The race in space and the challenge of the ocean are similar in many ways.

"Aerospace research has much in common with ocean research. Materials, propulsion, auxiliary power units, guidance and communications systems are as vital to marine vehicles as they are to aerospace vehicles and pose many of the same problems. It is logical, then, that the aerospace industry should turn its research attention to the fields of the ocean," according to Daniel J. Haughton, president of Lockheed.

ANTI-SUBMARINE WARFARE

The best example of aerospace companies participating in "inner space" operation is the Navy's antisubmarine warfare program. Since 1961, the percentage of the Navy's research, development, testing and evaluation budget that is devoted to antisubmarine warfare has climbed from 18 per cent to more than 28 per cent at the present. By the end of the decade, it will account for at least a third of the total budget.

The names participating in this all-important program read like a roster of the aerospace industry. Not only is most of the technology being put together by aerospace concerns, but the Navy has picked TRW, Inc., an aerospace company, to coordinate and do the systems work on the entire program.

In the Deep Submergence Systems Project (DSSP), another aerospace company, the Northrup Corporation, has been given the job of assisting the Navy in management and systems integration. The program was created in reaction to the Thresher disaster.

DSSP has been planned to give the Navy four major capabilities: the ability to locate stricken submarines and their crews; to recover small objects down to 20,000 feet; to salvage large objects, including submarines and ships, downed on the Continental Shelf; and to expand man's capability to work in the sea.

Commercial interest in this program is perhaps greater than in any program of similar dollar size to emanate from Washington in recent years. More than 400 companies have sought information on business possibilities in the operation.

The hostile environments of space and the hostile environment of the sea have many technical requirements in common, but the transfer of technology from one to the other is neither easy or automatic.

As far as business is concerned, ocean and space are even more unalike. In space there is only one customer, the Government. Prime contracts are let in huge sums.

In contrast, a very large number of customers make up the ocean market and prime contracts may be both large and small. The research and development contract so familiar in the aerospace business is not common in oceanics.

As a result, more of a entrepreneurial burden has been placed on private capital.

The nation's overall program in conquering the seas has been moving ahead, but in bits and starts. Part of the problem has been lack of funds and the other has been lack of central control and direction.

The prime example of this lack of direction is Project Mohole, the nation's most ambitious project in the earth sciences. The primary goal of the project is the scientific exploration by core drilling of the earth's deep crust and mantle beneath the ocean basins. The secondary goal is to provide a prototype national facility for heavy work at sea, such as mining, satellite tracking and handling equipment.

Despite its obvious importance, the program, sponsored by the National Science Foundation, has met trouble repeatedly in Congress. It has been slowed down and at times it has appeared the whole operation might be called off.

RESEARCH EXPANSION

This period of lack of direction may, however, be coming to a close. In June, President Johnson signed the Marine Resources and Engineering Development Act.

The act calls for the expansion of research and development in the marine environment and the establishment of a National Council of Marine Resources and Marine Development. The council is headed by Vice President HUMPHREY. It also established a Commission on Marine Science, Engineering and Resources, which will be composed of 15 men knowledgeable in the oceanographic field.

The bill does not have the teeth that similar space laws have had, but it should provide some over-all guidance to what had been a fairly disconnected effort.

The United States is not acting in an international void in its oceanographic efforts. France has made significant contributions to the understanding of the seas. Britain is also active. Even the tiny state of Monaco has made significant contributions to the field, in fact houses the world's greatest oceanographic museum.

The big competitor, of course, is the Soviet Union. Russia has by far the world's largest fleet of submarines and its modern fishing vessels roam the world even to the fishing banks of Cape Cod.

RIVAL TECHNIQUES

These are just the Soviet Union's most obvious oceanographic activities. Their accomplishments in space make it not unlikely that they are presently performing experiments and research that rival anything we are doing in technique and sophistication.

Last week at the commissioning of the Oceanographer, President Johnson called upon the Soviet Union to join the United States and all other maritime nations in exploiting the seas for mankind's benefit.

He asked that the nations avoid a new form of colonial competition for the ocean's riches. "We must be careful to avoid a race to grab and hold the lands under the high seas. We must ensure that the deep seas and the ocean bottoms are to remain the legacy of all human beings."

Many years ago, Sir Walter Raleigh said, "Whoever commands the seas, commands the trade, whoever commands the trade . . . commands the riches of the world."

Similar words were spoken more recently: "The nation that first learns to live under the seas will control them. And the nation that controls the seas will control the world." The speaker was G. V. Petrovich of the Soviet Union.

## ADEQUATE LEGAL SERVICES FOR UNDERPRIVILEGED

Mr. CLARK. Mr. President, recently a most provocative and interesting speech was delivered by the able Justice of the Supreme Court of the United States, Mr. Abe Fortas. It dealt in large part with the problems of the poor in obtaining adequate legal services to deal with complex problems.

Mr. Fortas made a number of intelligent suggestions as to how it would be feasible to furnish the poor with adequate legal services. He urged that priority should be given under title II of the community action program to funding to provide adequate legal services to the less fortunate individuals of our country who live in the ghettos of America and areas which are underprivileged.

I ask unanimous consent that a copy of Judge Fortas' talk may be printed in the RECORD at this point.

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

ADDRESS BY JUSTICE ABE FORTAS BEFORE SECOND CIRCUIT JUDICIAL CONFERENCE, LAKE PLACID, N.Y., JULY 2, 1966

It's a great pleasure for me to be with you tonight. It was generous of you to ask me; and kind of my brother Harlan to give me a visa to permit me to enter his territory.

As I considered the choice of subject for tonight I could not help regretting the passage of time. If my status were the same as a year ago—that is, before I was benched, I would undoubtedly have chosen to speak to you on recent decisions of the Supreme Court in the field of antitrust. I have no doubt that I would have expressed my strong and forceful approval of certain minority opinions that were written this term—but, after all, my wife sometimes reminds me that there is little doubt as to the identity of my favorite author.

As it is, I must be circumspect. And as I thought of addressing the members of the most affluent bar in the world and those who sit in judgment on them, it was natural that I decided to speak on the subject of poverty. After all, judges have a kinship with poverty. It's been suggested that they are the most overprivileged and underpaid members of our society.

It's characteristic of our nation that on great social issues we are inclined to defer action, to the point of crisis; but when we act, we do so with tremendous energy. Maybe that's good. Munoz Marin, the extraordinary former Governor of Puerto Rico, once said that democracy is the art of doing things at the last minute. There is a generally felt need for great actions; and the feeling seldom inspires action until the need is imperative.

So it has been with the problems of our Negroes and the poor. Some people are startled to be reminded that 100 years ago this nation solemnly resolved that no person shall be deprived of his voting rights on account of race or color or previous condition of servitude. That was the Fifteenth Amendment. And about a hundred years ago, the Fourteenth Amendment was adopted, and it said that no state shall deprive any person of equal protection of the laws.

But these were wartime measures. They were the product of victory, not of consensus. And like the fruits of most wars, they were not harvested. For about a hundred years, the great decisions incorporated in the Fourteenth Amendment provided limited sustenance to their intended beneficiaries; and the radical Fifteenth Amendment lay dormant, with only an occasional and feeble sprouting.—There was, in effect, a quiet national decision substantially to nullify the edicts of the victors of the Civil War.

I think that this was largely because the intended beneficiaries—the Negroes—were nobody's constituency. They were unorganized and leaderless. And in a democracy, as Harold Laski has reminded us, it is not demand that produces action, but effective demand.

Now, organized and instigated by competitive leaders—galvanized by the examples of the new nations in Africa—the Negroes of this nation have pressed their rightful demands upon the sensitive conscience of America. The response they have received is tremendous—a characteristic outpouring of energy, good will and inventiveness, designed to reconstruct in a few years the shambles of a century of neglect and negation. And I think that it is to this initiative of the Negroes that we must trace the inclusion of all the poor in this gigantic undertaking—that without the catalyst provided by the Negroes, the poor of this affluent nation would have remained outside of its circle of primary concern.

We are now launched upon a vast social revolution—a social revolution that, I think, is without parallel in the peaceful achievements of men and their governments. We are not near the goal. We are at the beginning, not the end. But in characteristic American fashion, it is an explosive beginning. It is a giant thrust forward and upward.

Thus far, it has taken the form of a new statement of national principles. It is a new Bill of Rights—new, not because the principles were not written. They were—100 years ago. It is not new because it creates new rights. It does not. The rights were solemnly assured 100 years ago.—It is a new Bill of Rights in the sense that the nation has decided—and, I think, decided beyond possibility of reversal or negation—that the rights guaranteed by our constitution and insisted upon by our religious and moral principles shall be available to all—and that they shall be available in the full sense—that is, clothed with opportunity—for naked rights, without the opportunity to put them to work for achievement and selfrealization, may be comforting to the giver, but they are useless to the recipient.

And so we have begun the vast formidable process of opening the doors of our society to 35,000,000 new people—the Negroes and the poor whites. There is no turning back, for we have recognized their rights—we have begun to grant their demands—and even in this land of miracles, there is no way to return the chicken to the egg—even if we should want to do so.—So far as I am concerned, I welcome this great development. It is right. Its benefits will be enormous. The nation will reap a rich harvest from the introduction and full participation of these 35,000,000 people. They will bring new vitality, new diversity, new wealth and new talents to us—as producers, consumers and contributors to our culture. As the President has said, we have opened a new frontier—a frontier not of land, but of people. And I think that the benefits to the nation may properly be compared to those which result from the opening of a vast new territory—comprising more than one-sixth of our population.

In this enormous process there has occurred a change in basic concept which is of profound significance. The poor we have had with us always, and our society has not been blind to their need or deaf to their call for help. But our traditional response has been in terms of charity—at first, private charity and, in more recent times, public assistance.—The basic concept has been charity—a benefaction bestowed as a matter of grace—granted at will, withheld or withdrawn at will. We have proceeded on the theory that neither private citizens nor the state has an obligation to provide assistance; and, correspondingly, no one has a right to demand it.—So it is that the Louisiana Legislature felt free to strike 23,000 needy children (largely Negro) from the assistance rolls, because they were born without benefit of clergy.—It is, I think, no exaggeration to say that the recipients of public assistance have lived at sufferance. They have been strangers to the law, except as an adversary—the arresting policeman, the criminal process, the juvenile courts, the unpaid landlord, the unsatisfied merchant.—As recipients of public welfare benefits, they have confronted society in its most formidable, and sometimes outrageous, aspects: The prying eye of the welfare worker acting under compulsion of laws and rules and regulations sometimes designed to see that those who receive welfare qualify for it by leading lives which, if not blameless, are at least celibate: witness, for example, the administration of the law which denies welfare payments to a woman and her children if the welfare worker finds a man in the house—a law which in the District of Columbia was enforced by infamous midnight raids.—Witness, too, the almost routine actions of some juvenile courts—despite the admonitions in many juvenile court statutes—in depriving mothers of their children.

A non-lawyer, Elizabeth Wickenden, an expert in social welfare theory and practice, has forcefully brought to public attention the absence of law in this area. The millions of people in this nation who are dependent on social welfare payments are, in truth, largely outside of our system of legal protections. They live in a hostile world, in which the law is not a protective system, but another instrument of aggression in a society which, to them, is fearful, dangerous and vindictive. As Michael Harrington has put it: "To be impoverished is to be an internal alien, to grow up in a culture that is radically different from the one that dominates the society." [1]

As we move up the scale from the impoverished who are almost totally dependent upon public welfare to the remainder of the 35,000,000 in the poverty class, we find that the situation is not much better. To them, too, the law has been an antagonist—fearsome and destructive. On the civil side, they have been helpless and friendless. The law has been the instrument which has evicted them for non-payment of rent; which has seized and sold their possessions at the behest of landlord, grocer, installment seller. It has been available to the enemy—not to them. Lawyers have been tools of the enemy—out of the reach of the poor. On the criminal side, the same has been true. Potent police, omnipotent juvenile court judges have had the power to seize and dispose of their children in a process which we lawyers call civil and not criminal—with more justification in history than in fact. Alien police—officials of the establishment—have had the means and the authority to take them into custody and commit them to a dark and mysterious process in which they have been without guidance or assistance—with some qualifications to which I shall refer. Without bail,

[1] Harrington, *The Other America* (1962) 16–17.

without guidance, without friends—cut off from their families and means of livelihood—the joys of the rule of law have not been impressive to them.

Perhaps what I have said may seem overdrawn to you—or at least excessively dramatic. The colors of the jungle are overblown in the eyes of people who live in temperate lands.—But the important point is that the condition which I have described is no longer merely a summons to comparison. It presents the problem which we must solve if we are to live in peace—if we are to be able to walk our streets in safety and security—if we are to reduce crime to manageable levels—if we are ourselves to be free from the danger of infection of lawlessness, ignorance and drug addiction. The condition that I have described must be resolved if we are to have the rule of law—if we are to be able to bring 35,000,000 people to the point of involvement and identification with our society, instead of hostility and antagonism—and if we are to convert these people into productive members of our community instead of persons who represent a perpetual burden and menace.

As I have indicated, I believe that an indispensable key to this process is to be found in the law—in the availability of law to the poor, not as an adversary, an enemy, but as a process of which they are beneficiaries—in the benefits of which they fully share. In net effect, this means that legal services must be available to them. It would be idle to underestimate the need or the resources required to meet even the basic need. For I think it is true that the 35,000,000 of whom we speak are those who are most frequently involved with the law. It is they who are most often involved in the criminal law; and it is they who most frequently are the subjects of the forcible collection procedures, eviction processes, juvenile and family court proceedings, and denials of welfare and other government payments. It is they who live on the fringes of our legal system—and it is here that the fingers of the law most often touch the daily lives of people.

I need not emphasize to you that our traditional system of voluntary legal aid and legal aid societies is totally inadequate for this purpose. We are entitled to be proud of their record—proud that lawyers have accepted court assignments without fee and and sometimes at considerable cost; proud that lawyers have generously contributed time and money to legal aid societies to provide services to indigents; and proud that these societies have enlisted substantial support from the bar associations and the communities they serve. But our pride in the past does not diminish our realization that these voluntary services are totally inadequate—inadequate in theory and abysmally inadequate in scope and resources. Carlin and Howard, for example, in a study published last year, estimated that only about 10% of those persons needing legal aid are actually serviced.[2] I believe this is conservative, but I shall not elaborate the point. Perhaps more important is the observation that we have moved into a different concept of legal services for those who cannot afford to pay for them. No longer can we look upon them as a charity, largely private. We have begun to regard them as a state obligation—within a perimeter which is beginning to take definition, as a service which the government is obliged to furnish and to which the individual who, by hypothesis, could not otherwise obtain legal service, is entitled. This concept, startling in its boldness, does not, of course, emerge only with respect to legal services. It reflects, and is part of, a new concept of public welfare: That it embraces duties of the state, and not just benefactions; and that it vests rights in those eligible, not merely privileges. Professor Charles Reich, in a perceptive article, has called it "The New Property."[3]

Faced with this need—with this explosive concept—the bar has responded magnificently. On February 8, 1965, the House of Delegates of the American Bar Association adopted a resolution directing its officers and committees to cooperate with the Federal Office of Economic Opportunity (The Poverty Program) and other appropriate groups in expanding legal services to indigents and persons of low income. The ABA has cosponsored a series of regional conferences on problems and methods of providing these legal services. Compared with total annual expenditures by legal aid societies in the area of $5,000,000, the OEO in fiscal 1966 provided $25,000,000 for the purpose—funding 121 legal services programs. The National Advisory Committee to the Legal Services Program has requested that $50,000,000 be allocated to the program next year.

In a remarkable statement submitted in support of this appropriation request, Orison S. Marden, President-elect of the American Bar Association has attested the Bar's strong endorsement of the program. He eloquently described the reaction of the poor towards the law. "The law," he said, "known in the ghetto as 'The Man'—seems to the poor man always to be on the other side . . . put a lawyer by their side," he said, "and the whole outlook changes in almost every particular."

Law schools have also accepted the challenge. Now courses have been instituted. Practice projects have been undertaken. The aid of foundations has been generated. In particular, the Ford Foundation is making a remarkable contribution both of financing and ideas. More and more, young lawyers emerging from law schools are seeking an opportunity to participate in the Legal Frontier of our time.

All of us know that the problems of implementing this huge program are enormous. The values to be considered are great and complex. The precedents and examples are of limited value. In England, since enactment of the Legal Aid and Advice Act of 1949, a comprehensive plan for providing legal services in civil as well as criminal matters has been in operation. Its basic principles are that need and eligibility are determined by committees of the Law Society, composed entirely of lawyers. The client is then entitled to select his own solicitor who then proceeds completely as if the client came to him in the course of his private practice. The lawyer is paid fees by the state on the same basis that fees are charged in private practice, and his expenses for investigations, experts, etc., are similarly totally reimbursed.—While the system is admirable in many respects, it is doubtful that it can be applied in this country to our vast and somewhat unruly circumstances.

We are proceeding—wisely, I think—with a wide variety of devices in many communities—primarily designed by local lawyers and based on diverse ideas. I am glad to note that in many of the plans, law students and fledgling lawyers are liberally utilized. This is good for them, for the future of the Bar, and for the client. For this is a process which demands the enthusiasm and dedication of youth—and experience is no substitute for three qualities.

We are, then, at the threshold of a great development in the Law. We are on the verge of a historic transformation of the public evaluation of the lawyer, and of the lawyer's role in society.—Perhaps some of us will witness the final burial of the motion that lawyers are an evil, tolerated because necessary, but not to be encouraged. In criminal law, from the *Scottsboro* case (*Powell* v. *Alabama*) to *Gideon*, we have recognized that the trial of a man for a major offense is a mockery of justice, unless he is represented by counsel. In *Escobedo* and *Miranda*, we have explored the midnight darkness of the events that occur after a man is deprived of his liberty, when generally friendless and usually hopeless he must bear the enormous weight of accusation and interrogation.—We are now really to begin the process of using the law and lawyers, not merely as instruments of defense against criminal accusation, but as positive tools in the everyday life of the one-sixth of our population who live on society's fringes.

It is an enormous challenge. But it is also an opportunity—an opportunity to demonstrate that the law, made available to those who need it, is a powerful tonic—that, as Orison Marden has said, providing a man "with a belief in the existence of justice will restore the self-reliance, the hope, the ambition that he may have lost in early childhood." It is an opportunity to show that the law and lawyers are not merely instruments of negation—of negative control—but that faith in them can provide a means for achieving dignity and trust in justice—without which no society can count itself as either safe or secure.

[2] Carlin and Howard, *Legal Representation and Class Justice*, 12 U.C.L.A. L. Rev. 381 (1965).

[3] Reich, *The New Property*, 73 Yale L. J. 733 (1964). See also Reich, *Individual Rights and Social Welfare: The Emerging Legal Issues*, 74 Yale L. J. 1245 (1965).

## RECESS

Mr. HART. Mr. President, if there is no further business to come before the Senate, pursuant to the order previously entered, I move that the Senate stand in recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 6 o'clock and 39 minutes p.m.) the Senate recessed until tomorrow, Thursday, September 15, 1966, at 12 o'clock meridian.

## CONFIRMATIONS

Executive nominations confirmed by the Senate September 14 (legislative day of September 7), 1966:

### ATOMIC ENERGY AGENCY

Glenn T. Seaborg, of California, to be the representative of the United States of America to the 10th session of the General Conference of the International Atomic Energy Agency.

The following-named persons to the positions indicated:

*To be alternate representatives of the United States of America to the 10th session of the General Conference of the International Atomic Energy Agency*

Verne B. Lewis, of Maryland.
Samuel M. Nabrit, of Texas.
James T. Ramey, of Illinois.
Henry DeWolf Smyth, of New Jersey.

### POST OFFICE DEPARTMENT

Leo S. Packer, of New York, to be an Assistant Postmaster General.

### FEDERAL HOME LOAN BANK BOARD

Robert L. Rand, of California, to be a member of the Federal Home Loan Bank Board for the term of 4 years expiring June 30, 1970.

### POSTMASTERS

CALIFORNIA

Richard L. Luttrell, Fort Jones.
Edythe E. Gollar, Greenview.
E. Eugene Henry, Huntington Park.

Miriam G. Lyster, Inyokern.
Jimalou J. Wyman, Lakeview.
Harry V. Wiley, La Mesa.
Arthur C. Stuart, Mount Laguna.
Ethelbert A. Bishop, North Palm Springs.
Wilbur T. Laws, Paramount.
John R. LePage, Poway.
John F. Sheehy, South Gate.
Richard V. Vargas, Summerland.
Manual Maldonado, Sunnyvale.
Nina R. Ogle, Winterhaven.
Carl A. Tice, Yorba Linda.

CONNECTICUT

Julien A. Barrette, Danielson.
Robert S. Sinkowitz, Voluntown.

DELAWARE

Mary A. Russell, Rockland.

FLORIDA

A. Gerald Cayson, Blountstown.
Thomas H. Brown, Jupiter.
Benjamin F. Inman, Perry.
Willie A. Perry, Tallevast.

GEORGIA

Willouise B. Rogers, Manassas.
J. Derrell Weaver, Norman Park.
Bradwell H. Floyd, Plainville.
Rubie R. Raulerson, St. George.

HAWAII

Gunichi Takahashi, Waialua.

ILLINOIS

Helen M. Harding, Hammond.

INDIANA

Harry S. Young, Bloomfield.
Wiley E. Brewer, Fowler.
Ralph B. Foster, Kimmell.
Robert L. Wilson, Jr., Ladoga.
Doyle E. Rich, Monroe.
Charles A. Jackson, Perrysville.
Joy C. Stahl, Rome City.

IOWA

Arne W. Eriksen, Alta.
Paul W. Gannon, Colfax.
Gerald R. Brummer, Crescent.
Donald C. Logue, Cumberland.
William A. Hartgenbush, Schaller.

KANSAS

George W. Kohls, Herington.

KENTUCKY

Carl R. Lair, Monticello.
John V. McElroy, Springfield.

LOUISIANA

Geneva S. Mims, Garden City.
Katheryn L. King, Greenwood.

MAINE

Corinne E. Savage, Sabattus.
Carleton F. Farrington, South China.

MASSACHUSETTS

Robert R. DeForge, Agawam.
Thomas J. Hagerty, Dover.
Arnold D. Hall, East Otis.
John V. Joyce, Holden.
William P. Callahan, North Dighton.
Ralph J. Shea, Osterville.
Joseph G. Moitozo, Rehoboth.
Robert D. Rudden, South Dennis.
Cullen S. Packard, Worthington.

MICHIGAN

Leo R. Buckler, Glen Arbor.

MINNESOTA

William E. Wehvila, Angora.
Odell L. Agre, Sacred Heart.
Alexander J. Winkels, Stewartville.
Marion A. Kennedy, Walker.

MISSISSIPPI

Bonnie L. Cole, Bogue Chitto.
Marie B. Coen, Hermanville.

MISSOURI

Arthur L. Jones, Amoret.
James E. Sewell, Everton.
Robert R. Wilson, Pleasant Hope.

MONTANA

Eugene L. Henderson, Darby.
Roger G. Stenson, Fairfield.
Roy C. Hogenson, Wilsall.

NEBRASKA

Ila M. Nornam, Ceresco.
Charles W. Danaher, David City.

NEW HAMPSHIRE

Wallace A. Putnam, New Ipswich.
Clarence J. Abare, Troy.
Richard L. Hutchins, Wolfeboro.

NEW JERSEY

Dora Barbarotto, Buena.
Donald H. J. Donovan, Moorestown.
James L. Doyle, New Lisbon.
Clarence P. Kinsley, Pemberton.

NEW YORK

William Barr, Hamburg.
James T. Duffy, Lake George.
Raymond C. Grinnell, McConnellsville.

NORTH CAROLINA

Mary M. Harris, New London.

NORTH DAKOTA

Dale E. Brayton, Hunter.
Dorothy E. Stringer, Tower City.

OHIO

William L. Howard, Carey.
Leonard B. Alt, Genoa.
Luella E. Zimmerman, Lemoyne.
I. Faye Furr, McGuffey.
Keith B. Herrick, Middlefield.
Robert C. Chapman, Mount Gilead.
Lois E. Baer, New Springfield.
Norbert J. Huber, North Star.
Raynor V. Burcham, Proctorville.
Rodger K. Morningstar, South Vienna.
T. Faye Kughler, Stone Creek.
Donald R. Deem, Tuscarawas.
Robert W. Spillman, Waynesfield.

OKLAHOMA

Doris E. Steverson, Fort Cobb.
Clarence D. Niblett, Hastings.
Kinley A. McClure, Lawton.
Eugene Goforth, Spiro.

OREGON

Edward I. Taylor, North Powder.
Vergie M. Magnuson, Warrenton.

PENNSYLVANIA

Ruth J. Svilar, Armagh.
Joseph W. Hanna, Clymer.
Andrew P. Stallsmith, Hadley.
Lorraine R. Thompson, Landenberg.
Mancil E. Bradford, Junior, Modena.
Francis J. McIntyre, Oxford.

PUERTO RICO

Rafael Olmeda-Torres, Morovis.
Cesar A. Perales, Saint Just.

RHODE ISLAND

John C. Talbot, West Warwick.

SOUTH CAROLINA

Hortense W. Cole, Cross Hill.
John J. Ward, Darlington.

SOUTH DAKOTA

Frederick B. Vaske, Elkton.
Joy L. Wallum, Iroquois.
Preston O. Starbuck, Onida.
Newell E. Lege, Revillo.
Laverne Cordry, Rosebud.
Alyce A. Schroeder, Wentworth.
Frank O. Perry, White River.

TENNESSEE

Joe M. Fondren, Arlington.
Tommy T. Luther, Bon Aqua.
Elaine L. Bush, Cedar Grove.
Thomas A. Henson, Cowan.
Fred R. Lockett, Junior, Johnson City.
Frank W. Greer, Pegram.

TEXAS

Bennie R. Vick, Conroe.

VERMONT

Ralph G. Aulis, Norwich.

VIRGINIA

Dorothy C. Lewis, Mappsville.

WASHINGTON

Genevieve F. Tapscott, Packwood.

WEST VIRGINIA

Robert L. Pullen, Sutton.

WISCONSIN

Andrew F. McGuan, Baraboo.

# EXTENSIONS OF REMARKS

## Rosh Hashanah

EXTENSION OF REMARKS

OF

**HON. ADAM C. POWELL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 14, 1966*

Mr. POWELL. Mr. Speaker, today, September 14, at sundown, begins the 10-day period of the Jewish high holy days and the Jewish year of 5727.

The moving religious significance of this period is not only meaningful to the world Jewish community, but it is a reminder of the lasting contributions to world civilization by our Jewish brothers.

This 10-day period is also known as the "Days of Awe." Certainly all of us need to pause along with our Jewish brothers in awe at the greatness of God and the wonders of his works.

These are troubled times for our Nation and for the world. The revolution of rising expectations among the deprived of the world has not yet attained fulfillment.

The mountains of bigotry, poverty, and misunderstanding still stands between the ocean of brotherhood and the prairie of peace. We have not yet learned to enjoy each other's proximity.

As we stumble about in the darkness of ignorance seeking solutions to the racial crises of our Nation and the conflict in Vietnam, let us reaffirm our faith in the oneness of God and our love for His children, our fellow man.

As a Baptist minister and one of the only three clergymen in both bodies, I can think of no more appropriate thoughts for Rosh Hashanah than those expressed by our first President, George Washington, to the Hebrew congregation in Newport, R.I., in 1790:

May the Children of the Stock of Abraham, who dwell in this land, continue to merit