definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROYBAL:

H.R. 17448. A bill to amend the National Housing Act to provide for a national program to improve the availability of necessary insurance protection for residential and business properties against fire, crime, and other perils, through the cooperative efforts of the Federal and State Governments and the private property insurance industry, to provide rehabilitation assistance for low-income property owners whose properties do not meet reasonable underwriting standards, to authorize Federal reinsurance with appropriate loss sharing by the States against insurance losses resulting from riots and other civil commotion, and for other purposes; to the Committee on Banking and Currency.

By Mr. SCHADEBERG:

H.R. 17449. A bill to amend the Internal Revenue Code of 1954 to grant an additional income tax exemption for each dependent of the taxpayer who is permanently handicapped; to the Committee on Ways and Means.

By Mr. BINGHAM:

H.R. 17450. A bill to provide support for public elementary and secondary education in the United States; to the Committee on Education and Labor.

By Mr. HANLEY:

H.R. 17451. A bill to amend title 5, United States Code, to provide certain services for Government employees in order to assist them in preparing for retirement; to the Committee on Post Office and Civil Service.

By Mr. GRAY:

H.R. 17452. A bill to amend the Internal Revenue Code of 1954 to provide that any unmarried person who maintains his or her own home shall be entitled to be taxed at the rate provided for the head of a household; to the Committee on Ways and Means.

H.R. 17453. A bill to amend the Internal Revenue Code of 1954 to increase from $600 to $1,200 the personal income tax exemptions of a taxpayer (including the exemption for a spouse, the exemptions for a dependent, and the additional exemptions for old age and blindness); to the Committee on Ways and Means.

By Mr. McCLURE:

H.R. 17454. A bill to enable the Secretary of Agriculture to extend financial assistance to desert-land entrymen to the same extent as such assistance is available to homestead entrymen; to the Committee on Agriculture.

By Mr. QUILLEN (for himself and Mr. RIVERS):

H.R. 17455. A bill to provide that a headstone or marker be furnished at Government expense for the unmarked grave of any Medal of Honor recipient; to the Committee on Armed Services.

By Mr. EDWARDS of Alabama:

H.J. Res. 1279. Joint resolution proposing an amendment to the Constitution of the United States to provide for the popular election of the judges of the Supreme Court, the circuit court of appeals and the Federal district courts; to the Committee on the Judiciary.

By Mr. FARBSTEIN:

H.J. Res. 1280. Joint resolution to provide that it be the sense of Congress that a White House Conference on Aging be called by the President of the United States in 1971, to be planned and conducted by the Secretary of Health, Education, and Welfare to assist the States in conducting similar conferences on aging prior to the White House Conference on Aging, and for related purposes; to the Committee on Education and Labor.

By Mr. BARRETT:

H. Res. 1183. Resolution to authorize the printing, as a House document, of the committee proceedings honoring the start of the 40th year in Congress of Hon. WRIGHT PATMAN; to the Committee on House Administration.

By Mr. RUPPE:

H. Res. 1184. Resolution the Middle East nonproliferation treaty on conventional weapons; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. ADDABBO:

H.R. 17456. A bill for the relief of Letizia and Saverio Genna; to the Committee on the Judiciary.

By Mr. BURKE of Massachusetts:

H.R. 17457. A bill for the relief of Roberto V. Castaneda; to the Committee on the Judiciary.

H.R. 17458. A bill for the relief of Manlio DeGrandis; to the Committee on the Judiciary.

By Mr. BURTON of California:

H.R. 17459. A bill for the relief of Gianfranco Sandri, and his wife, Fiorella Borgatti Sandri; to the Committee on the Judiciary.

By Mr. BUTTON:

H.R. 17460. A bill for the relief of Armando B. Figueroa, M.D.; to the Committee on the Judiciary.

By Mr. EDWARDS of California:

H.R. 17461. A bill for the relief of Alfredo Augusto Maciel; to the Committee on the Judiciary.

H.R. 17462. A bill for the relief of Mrs. Maria Elvira Maciel; to the Committee on the Judiciary.

By Mrs. HECKLER of Massachusetts:

H.R. 17463. A bill for the relief of Barba Francesco; to the Committee on the Judiciary.

H.R. 17464. A bill for the relief of Degennaro Sabato; to the Committee on the Judiciary.

H.R. 17465. A bill for the relief of Antonio Trinchese; to the Committee on the Judiciary.

By Mr. HELSTOSKI:

H.R. 17466. A bill for the relief of Graziella and Liboria Spinnato; to the Committee on the Judiciary.

By Mr. MESKILL:

H.R. 17467. A bill for the relief of Slavko Firman; to the Committee on the Judiciary.

H.R. 17468. A bill for the relief of Edmund Kaminski; to the Committee on the Judiciary.

By Mr. MOORE:

H.R. 17469. A bill for the relief of Mr. Morris Moshe Chachmany; to the Committee on the Judiciary.

By Mr. O'NEILL of Massachusetts:

H.R. 17470. A bill for the relief of Thomas Dowling; to the Committee on the Judiciary.

H.R. 17471. A bill for the relief of Jose Costa Marques and Almerinda de Matos Sao Marcos Bom and their minor child; to the Committee on the Judiciary.

H.R. 17472. A bill for the relief of Amalia Placidi; to the Committee on the Judiciary.

By Mr. PELLY:

H.R. 17473. A bill for the relief of Patria M. Cordero; to the Committee on the Judiciary.

By Mr. POLLOCK (by request):

H.R. 17474. A bill to authorize the Secretary of the Interior to consider a petition for reinstatement of certain oil and gas leases; to the Committee on Interior and Insular Affairs.

By Mr. RESNICK:

H.R. 17475. A bill for the relief of Phillipp G. Leclercq; to the Committee on the Judiciary.

By Mr. VANIK:

H.R. 17476. A bill for the relief of Mohammed Mehdi Saghafi; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

322. The SPEAKER presented a petition of the City Council of the city of Trenton, N.J., relative to truck size and weight limitation on interstate highways; to the Committee on Public Works.

SENATE—*Wednesday, May 22, 1968*

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the President pro tempore.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

O God our Father, our spirits are restless until they find the rest of Thy presence; our hearts are empty, our lives barren, our plans futile, until Thou dost possess our very souls.

At this high altar in the temple of public service, maintain, we beseech Thee, in those who here represent the people, the fidelity of those to whom much has been given and from whom much will be required.

In our hearts, we cherish the golden heritage that has been given us through the virtue and valor of those whose records within these legislative halls have helped to make the greatness of our free land.

In the midst of all that saddens and perplexes in this difficult, yet splendid day, give us an inner radiance, not knowing that our faces shine, but humbly glad that in a world that lieth in darkness we are the children of the light.

In the dear Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, May 21, 1968, be approved.

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

OBJECTION TO COMMITTEE MEETINGS DURING SENATE SESSION

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

Mr. CARLSON. Mr. President, I am somewhat embarrassed to object this morning, but I shall have to do so, at the request of the minority leadership. I say it is embarrassing for this reason: It has been my hope that the ad hoc committee of the Committee on Foreign Relations could meet this morning to discuss and hopefully recommend to the full

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committee that the International Grains Agreement of 1967 be approved.

This is an important treaty on which I had hoped we could get early action. It is important to the wheat producers of this Nation, and I believe it is important in another aspect. The International Wheat Agreement has in the past prevented a world wheat price war and has stabilized wheat prices worldwide. The new program, which is known as the International Wheat Agreement, in my opinion, would prevent a world wheat price war in the future, as it has in the past.

This important treaty offers two key advantages for the United States—better world prices for our wheat than without the arrangement, and a start on worldwide sharing of food aid.

It is with sincere regret that, at the request of the minority leadership, I must object to the meeting of all committees this morning. So I object.

Mr. MANSFIELD. Mr. President, I agree with what the distinguished acting minority leader, the Senator from Kansas [Mr. CARLSON], has just said. It is an important agreement, and I hope it will be forthcoming shortly.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of executive business to consider nominations on the Executive Calendar.

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

DEPARTMENT OF TRANSPORTATION

The bill clerk proceeded to read sundry nominations in the Department of Transportation.

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

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

FEDERAL MARITIME COMMISSION

The bill clerk read the nomination of George Henry Hearn, of New York, to be a Federal Maritime Commissioner.

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

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

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

LEGISLATIVE SESSION

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

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

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

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

ORDER OF BUSINESS

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that I may proceed for 3 minutes.

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

AN EXAMPLE OF THE POWER OF MONEY IN THE ELECTION OF A PRESIDENT

Mr. LONG of Louisiana. Mr. President, an interesting article entitled "Flood of Kennedy Money May Sway California Primary in Blitz," written by two of this Nation's ablest columnists, Rowland Evans and Robert Novak, was published in the Washington Post of Wednesday, May 22, 1968.

This article involves a problem that is very much the concern of the Senator from Louisiana. It is virtually impossible for a man of modest means to seek the Presidency of the United States with any hope of winning it, unless he is either the darling of certain vested interests, on the one hand, or, on the other hand, he is the Vice President of the United States, seeking to succeed the man who is the President.

This article is very enlightening, and it reminds me of a parallel situation that occurred some years ago, when the present Vice President of the United States, Mr. HUBERT HUMPHREY, made an effort in West Virginia to win the primary election there. A very touching account of what happened there appears in the book "The Making of the President," by Theodore White; and I shall ask unanimous consent later that an excerpt from the book be printed in the RECORD.

The article also discusses the situation of an able U.S. Senator seeking to make his case to the American people when confronted with the enormous power that his opponent's money can achieve in a primary election. It is interesting to read the two stories in context.

I have no criticism at all of rich people who spend their money in an effort to achieve public office, or whose associates join in helping them provide the money. I merely say that it should be possible for those of modest means to compete and to make their case to the people.

This is a real problem, and I will undertake to provide some additional articles on this subject that appear in various highly regarded publications in the country, which help to emphasize the problem.

In my judgment, we in Congress owe it to the American people to provide a better answer than that which exists today to the problem of good men failing to have their case adequately heard or considered simply because they lack the means to make the case. I believe that Congress cannot continue to ignore this problem. I believe we have a duty to act.

I ask unanimous consent that the article by Evans and Novak and an excerpt from the book "The Making of the President" be printed at this point in the RECORD.

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

FLOOD OF KENNEDY MONEY MAY SWAY CALIFORNIA PRIMARY IN BLITZ

(By Rowland Evans and Robert Novak)

LOS ANGELES.—The David-vs.-Goliath quality of the California presidential primary contest between Sens. Robert F. Kennedy and Eugene McCarthy is vividly reflected in a visit paid two weeks ago to a major Los Angeles radio station by a man from an advertising agency representing Kennedy.

The Kennedy operative blandly asked to buy *all* the station's available air time between May 20 and Primary day, June 4. Amazed, the station made the deal. The incident was by no means isolate. The Kennedy campaign, at an immense cost, has pre-empted much of the available time on both television and radio in the Los Angeles area in a media blitz that began on Monday, May 20.

Actually, if McCarthy could scrape together enough money, the stations would be forced, under Federal regulations, to make time available to him, but the point is that McCarthy cannot begin to compete with Kennedy in terms of money, staff personnel, or campaign expertise and for that reason cannot hope to win this climactic primary.

The contrast in terms of money is particularly sharp. The unannounced Kennedy advertising budget for all media in California is $2 million. That means total Kennedy spending here could reach $4 million, unprecedented for a primary election campaign even in this State accustomed to uninhibited political spending.

With Vice President Hubert Humphrey's well-heeled supporters here having made a calculated decision against subsidizing McCarthy, his campaign is grossly underfinanced. McCarthy may be able to buy $300,000 in radio-TV time here only because of an eleventh hour infusion of money from last week's McCarthy rally in New York.

The McCarthy war chest is so empty that a McCarthy staffer from New York, Joe De Cola, is here in a desperate last-minute search for money from conservative Republican fat cats who might be willing to help McCarthy to stop Kennedy.

Kennedy's advantage here is nearly as great in terms of staff. Fully 55 Kennedy staffers from the East, many of them battle-scarred veterans of past Kennedy campaigns, are here for the duration of the campaign and living fulltime at the Ambassador Hotel.

In addition, Assembly Speaker Jesse Unruh, Kennedy's California Chairman, has set up an elaborate organization to get out the vote—particularly the overwhelmingly pro-Kennedy Negro and Mexican-American vote—on June 4.

McCarthy's staff organization is adequate in Northern California, but his operation in Southern California has been an exercise in sheer chaos—and Southern California is where the votes are.

For that reason, McCarthy has personally assigned Curtis Gans, his abrasive but effective Chief of National Political Operations, to take charge of the Los Angeles operation.

More serious than the disorganization in Los Angeles has been the lack of a rational plan for California devised by McCarthy's national campaign planners. His California supporters have been furious over a schedule that has put McCarthy in Florida for days

while ignoring their pleas that he harvest conservative California votes in the Agricultural San Joaquin Valley. To their despair, McCarthy's national schedulers have not put him in the Valley until the campaign's last week.

Kennedy's campaign here has by no means been free of severe internal stresses. Consider the behind-the-scenes tensions surrounding Kennedy's campaign visit last week to the University of California campus at Davis.

Unruh privately complained that Kennedy is wasting his time on college campuses and ought to be wooing anti-Kennedy Southern Californians in the middle-income suburban tracts. Kennedy's national strategists reply that Unruh does not understand the "new politics."

There are private recriminations between Unruh lieutenants and two Californians on Kennedy's national staff—Frederick G. Dutton and Frank Mankiewicz.

But there are signs Unruh is making his point. Kennedy himself could not understand the rationality of his visit to the Davis campus. Moreover, Unruh has a good relationship with Kennedy brother-in-law Steve Smith, who, as Supreme Commander of the California campaign, has ordered subordinates to stop leaking anti-Unruh material to the press.

The outcome of such tactical disputes may determine whether Kennedy's win here is big enough to give him momentum for the nomination. But it is certain he will run ahead of McCarthy. Unbiased professional politicians here believe McCarthy might have made a battle of it could he approach Bobby's juggernaut in terms of money and staff, but now that will never be known.

EXCERPTS FROM "THE MAKING OF THE PRESIDENT"

Already heavily in debt for his Wisconsin campaign ($17,000 of unpaid debts hung over his head as he entered West Virginia), Humphrey had exhausted every resource and friendship he knew to raise money for this new campaign. He had been deserted now by all the old labor leaders for whom he had battled so heartfully for so many years in Washington; they wanted him out after the Wisconsin primary; they would give him no help here. And where desertion was not voluntary, the ever-efficient Kennedy organization, knowing its own fate to hang in the balance, moved to chop off the flow of support. In New York, from which so much Stevenson money had originally come to Humphrey's coffers, Governor Abraham Ribicoff,[1] acting on Kennedy's instructions, warned all Stevensonians that if they continued to finance the hopeless campaign of Hubert Humphrey, Adlai Stevenson would not even be *considered* for Secretary of State. Where necessary, Kennedy lieutenants were even rougher; in Connecticut, Boss John Bailey informed former Connecticut Senator William Benton, publisher of the *Encyclopaedia Britannica*, that if he continued to finance Humphrey (Benton had already given Humphrey $5,000 earlier in the spring), he would never hold another elective or appointive job in Connecticut as long as he, Bailey, had any say in Connecticut politics—which is a statement equivalent to permanent political exile in the Nutmeg State.

Strangled for lack of money (Humphrey's expenditures in West Virginia were to total only $25,000—nothing, in the scale of American politics), knowing himself in debt, aware of the nature, depth and resources of this final Kennedy drive, as the final week end approached Humphrey became a figure of pathos. He needed advertising, he needed workers, above all he needed TV to show himself across the state.

I remember the final Saturday morning, shortly after it was revealed that Kennedy's TV expenditures alone across the state had mounted to $34,000. Humphrey had had but four hours' sleep that morning and was up at seven, prepared to barnstorm north from Charleston in his bus on a rainy morning; at that point one of his assistants informed him that the TV stations that had booked him for a Sunday night half hour were threatening to cancel unless they were paid that day, cash in advance, for the time.

It was one of the few times I have seen the temper of that genial man snap.

"Pay it!" snarled Humphrey. "Pay it! I don't care how, don't come to me with that kind of story!" Then, realizing that his crestfallen aide was, like himself, destitute, Hubert pulled out his checkbook at the breakfast table and said, "All right, I'll pay for it myself," and scribbled a personal check of his own.

Mrs. Humphrey watched him do so, with dark, sad eyes, and one had the feeling that the check was money from the family grocery fund—or the money earmarked to pay for the wedding of their daughter who was to be married the week following the primary.

My memory tells me that the sum of that check was $750—not a particularly large sum for a statewide hookup of half an hour. But such a grocery-money check buys time only—it does not buy the production, the preparation, the care a major television manipulation of the public requires.

What happens when a man goes on cold on TV in politics with such a grocery-money investment was grotesquely shown by Humphrey's final appeal to the voters of West Virginia on that day before the election. From somewhere he had raised another $750 for another half hour of TV time, and now (like Richard Nixon much later in the year) he was prepared to save all with a telethon. A telethon is a political gimmick in which a candidate, theoretically but not actually, throws himself open to any and all questions from any voter who cares to call the broadcasting station. A good telethon requires good staff in order to screen questions and artfully sequence them so they give the illusion of spontaneity yet feed the candidate those pretexts on which he can masterfully develop his themes. It is commonly one of the most spurious and obnoxious devices of modern political gimmickry.

What happens when such a telethon is authentic—not spurious—Humphrey demonstrated with his modest $750 investment on that Monday. For when authentic, unscreened questions are fed to the candidate the effect is comic. Except that, watching Hubert Humphrey fight his last national battle with family grocery money, the effect was more sad than comic.

The telethon opened with Humphrey sitting alone at a desk; before him was a manual telephone with switch buttons for two lines, which he was supposed to punch alternately as questioners telephoned in. The viewing audience was to hear both unscreened question and answer over the TV set.

The first question was a normal mechanical question: "What makes you think you're qualified to be President, Senator Humphrey?" So was the second question: "Can you be nominated, Mr. Humphrey?"

Then came a rasping voice over the telephone, the whining scratch of an elderly lady somewhere high in the hills, and one could see Humphrey flinch (as the viewers flinched); and the rasp said, "You git out! You git out of West Virginia, Mr. Humphrey!" Humphrey attempted to fluster a reply and the voice overrode him, "You git out, you hear! You can't stand the Republicans gitting ahead of you! Why don't you git out?"

Humphrey had barely recovered from the blast before the next call came: what would he do about small-arms licensing for people who like to hunt? Then, what would he do about social security? None of the questions were hitting anywhere near the target area of Humphrey's campaign program, and then a sweet womanly voice began to drawl on the open switch, "How about those poor little neglected children, Mr. Humphrey, I mean how can we lower taxes like you say and take care of all those little children who need more schools and more hospitals, and more everything . . ." On and on she went, sweetly, as Humphrey (his precious, costly minutes oozing by) attempted to break in and say that he, too, was for the poor little neglected children.

By now the telethon was becoming quite a family affair, and the next voice was a fine mountain voice, easy, slow, gentle with West Virginia courtesy, and it said, "Senator Humphrey, I just want you to know that I want to apologize for that lady who told you to git out. We don't feel like that down here in West Virginia, Senator Humphrey, and I'm very sorry that she said that. . . ." He would have rambled on and on, but Humphrey, desperate, expressed quick thanks and pressed the other button.

He had barely begun to answer the question when a clipped voice interrupted on the party line of the caller, "Clear the wires, please, clear the wires, this is an emergency!" Humphrey attempted to explain that they were on the air, they were answering questions to a TV audience. "Clear the wires, clear the wire at once, this is an emergency," repeated the operator on the party line that straggled down some unknown West Virginia hill on which, perhaps, someone was trying to summon a doctor; and Humphrey his face blank and bedazzled, hung up, shaken, to press the button for another call (a gruff voice, with a thick accent, asking what he and Kennedy were going to do for the coal operators, they'd only been talking about the miners up to now, not the operators). From that point on the telethon lost all cohesion—proving nothing except that TV is no medium for a poor man.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

The PRESIDING OFFICER (Mr. LAUSCHE in the chair). The Chair lays before the Senate the unfinished business, which will be stated.

The BILL CLERK. A bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

The Senate proceeded to consider the bill.

Mr. LONG of Missouri. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG of Missouri. Is my amendment No. 797 the pending business?

The PRESIDING OFFICER. It is the pending business.

Mr. LONG of Missouri. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. MANSFIELD. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. LONG of Missouri. I yield.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum. It will be a live quorum.

The PRESIDING OFFICER (Mr. LAUSCHE in the chair). The clerk will call the roll.

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[1] Now Secretary of Health, Education and Welfare.

The bill clerk called the roll, and the following Senators answered to their names:

[No. 147 Leg.]

Aiken	Hickenlooper	Muskie
Baker	Holland	Pearson
Bible	Hruska	Percy
Boggs	Inouye	Proxmire
Byrd, Va.	Jordan, N.C.	Ribicoff
Byrd, W. Va.	Lausche	Russell
Carlson	Long, Mo.	Smith
Clark	Long, La.	Sparkman
Cotton	Mansfield	Spong
Dirksen	McClellan	Stennis
Gore	McIntyre	Talmadge
Hansen	Metcalf	Tydings
Hatfield	Monroney	Young, N. Dak.
Hayden	Mundt	

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Idaho [Mr. CHURCH], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New York [Mr. KENNEDY], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Wyoming [Mr. MCGEE], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Minnesota [Mr. MONDALE], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from West Virginia [Mr. RANDOLPH], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

Mr. DIRKSEN. I announce that the Senator from New York [Mr. JAVITS] is absent on official business.

The Senator from California [Mr. KUCHEL] is necessarily absent.

The PRESIDING OFFICER. A quorum is not present.

Mr. BYRD of West Virginia. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms is instructed to execute the order of the Senate.

After a little delay, the following Senators entered the Chamber and answered to their names:

Allott	Ellender	Moss
Anderson	Ervin	Murphy
Bayh	Fannin	Nelson
Bennett	Fong	Pastore
Brewster	Griffin	Pell
Brooke	Hart	Prouty
Burdick	Hartke	Scott
Cannon	Hill	Symington
Case	Jackson	Thurmond
Cooper	Jordan, Idaho	Tower
Curtis	Kennedy, Mass.	Williams, N.J.
Dodd	Magnuson	Williams, Del.
Dominick	Miller	Yarborough
Eastland	Morton	Young, Ohio

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the amendment of the Senator from Missouri.

The Senator from Missouri is recognized.

SUBCOMMITTEE MEETING DURING SENATE SESSION

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. LONG of Missouri. Mr. President, I yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Subcommittee on Intergovernmental Relations of the Committee on Government Operations be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER (Mr. BYRD of Virginia in the chair). Is there objection? The Chair hears none, and it is so ordered.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

The Senate resumed the consideration of the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. LONG of Missouri. Mr. President, I rise today in support of amendment No. 797 which is designed to create a new title 8 to the Omnibus Crime Control and Streets Act of 1967. The crime bill we have been discussing these many weeks in so many ways touches upon the rights of individuals. The amendment I support today also touches on the rights of individuals, and for this reason, I believe it is relevant and germane to the omnibus crime bill. This new title would simply allow young men to have the right of counsel when they appear before their local selective service draft board.

Some of my colleagues might ask: "Senator, this is a basic constitutional right; the right of counsel is spelled out in the Constitution of the United States." Now, many of us might believe this, but on May 16, 1968, before a hearing my Senate Subcommittee on Administrative Practice and Procedure held on S. 3303, Selective Service Director Gen. Lewis Hershey informed the Congress of the United States that the right of counsel does not exist in the Selective Service System.

To my knowledge, the Selective Service System is the only agency of the Federal Government that specifically prohibits such right. The cynic or the opponent of this measure might say that this bill is designed merely to help the legal profession. But when one begins to analyze this draft situation, one begins to realize that the draft laws are second in complexity only to the income tax laws—and even the Internal Revenue Service permits lawyers to represent clients. Yet, the millions of American boys who reach 18 years of age are denied this right. As I stated on the floor of the Senate when I introduced S. 3303:

> When the young man has been called before his draft board, there is perhaps no greater time when he might need the assistance of counsel. Yet, at that very moment, the regulations of the System itself specifically prohibit such counsel.

Recently, I received a letter from a lawyer in California who wanted to represent his 18-year-old son before the local draft board. But, because the father happened to be an attorney, he was denied the right to accompany his son. The neighborhood children, whose fathers were doctors, scientists, mechanics, and so forth, could accompany their sons into the draft board. I suppose that even the nonlawyers here in the Senate would be permitted to accompany their sons into the draft board, while the lawyers among us would be prohibited. This distinction makes no sense. As the lawyer from California wrote me:

> The chilling effect which the attitude of the Selective Service System has upon a Registrant's consultation with his own attorney is working a severe hardship on our young men and on our country. Clearly a part of the lawless attitude, which is developing among our young people, stems from their justifiable belief that they are being dealt with unfairly by the Selective Service System. When a young man is being torn from his home against his will for whatever reason, it is supremely important that he be given every opportunity to feel that he has been dealt with fairly and that he has been permitted to take advantage of his legal rights.

As this lawyer so correctly stated:

> If we do seek a rule of law in this country, then we must permit our citizens effectively to exercise their legal rights. Otherwise—

This lawyer suggested—

> what is there left but physical demonstration?

I am not so naive to say that by allowing the right of counsel to young men, the physical demonstrations that have been taking place at draft boards around the country would cease. But it would be a step in the right direction.

Mr. President, if the Selective Service System did allow some form of legal counsel, perhaps I would not be so concerned about the enactment of this amendment. The Selective Service System sends a registration certificate to each registrant. In the certificate is a statement entitled "This Is Your Selective Service System." Permit me to read a portion of this card:

> Your local board is composed of citizens of the community in which you live. Each local board has a Government Appeal Agent who is ready and willing to offer any legal counsel on Selective Service matters of which you may be in need.

Permit me to repeat the statement that the local board has a Government Appeal Agent ready to offer legal counsel on selective service matters. But General Hershey told us at our hearing that legal counsel does not mean legal counsel. According to the general:

> People are using the words "legal counsel" in two different senses. I—

Said General Hershey—

> am using it as a reservoir of legal information and not as an indication of counsel to the registrant.

Clearly, from the record of my subcommittee's hearing, not only does not the right of counsel exist in the Selective Service System, but also the Director of the Selective Service System is unwilling to provide such counsel where the young man is desirous of being represented.

The amendment before the Senate today is not designed to assist either the "doves" or the "hawks." Congress has

created the Selective Service System and with it the obligation on the part of all young men to serve their country. I do not quarrel or challenge this obligation. But Congress has created exemptions; Congress has created deferments. All my amendment would do would be to allow the law to be implemented. If, as General Hershey suggests, the enactment of this amendment would be a detriment to our national security, then Congress must change the draft law. It need not worry about the lawyer. But if we are to exist under our present draft law, the law is to be enforced as it was promulgated.

I am pleased to point out that even some Government appeal agents agree with me. Recently, I received a letter from a Mr. Ronald A. May, a lawyer from Little Rock, Ark., and a Government appeal agent for Local Board No. 60. Mr. May has consented to my using his letter in any way; and at this time I wish to read his entire letter into the RECORD.

The letter follows:

APRIL 30, 1968.

Re S. 3303.

DEAR SENATOR LONG: I noted today in the American Bar Association Washington Letter that your Subcommittee is considering the above described bill to extend the right of counsel to registrants appearing before their local Selective Service Boards. I am Government Appeal Agent for Local Board No. 60 in Little Rock. Having some familiarity with the Selective Service Law and its administration, I would like to recommend very strongly the passage of this legislation.

As a matter of fact, I think that it does not go far enough. At the present time the Selective Service Law is monstrously weighted against a registrant who seeks a classification other than I–A. His case is set for a hearing before the Board where he is not entitled to counsel. When he is then classified the law hypocritically informs him that he may seek the counsel of a Government Appeal Agent. Unfortunately, at that time there is damned little the Government Appeal Agent can do for the registrant. Any appeal he takes is on the basis of the record which was made before the local Board. He is not entitled to be heard by the Appeal Board. If, as usually happens, the Appeal Board turns him down, he does not even have an appeal of right to the President, but can only appeal in certain quite limited circumstances.

There are no provisions for a Court review, and the only way a registrant can test the legality of his classification is to take a chance on going to prison. Certainly the manpower requirements of the Government do not require procedures as ill-conceived as these.

The very notion of a Government Appeal Agent is a mocking one. The Agents are untrained and unpaid. I am not seeking compensation for this job and would, in fact, resign if compensation became available. It seems obvious, however, that a paid attorney is going to do a better job than an unpaid one. I object very much to the casual way in which agents are appointed and the almost complete failure on the part of the Government to inform the agents about this rather technical area of the law. As a matter of fact, one of the few communications I have ever received from the Director of the Selective Service was the insulting suggestion that agents (who are supposed to be lawyers) should inform on their clients.

It has been suggested frequently that Government Appeal Agents cannot be trusted because they, in effect, represent the Government. Personally, I resent such criticism, and I have always done my best to advise and represent the registrants who have consulted me. I must admit, however, that there some ambiguity in the regulations which require the agents "to be equally diligent in protecting the interests of the Government and the rights of the registrant in all matters."

I feel compelled to conclude this letter by stating as strongly as I can that my criticism of the law is not directed at the administration of the law by the Local Board with which I am associated. That Board is composed of extremely fine individuals who have done a splendid job at considerable personal sacrifice. They have never hesitated to reopen cases at my request and to accommodate me on hearings. The same can be said for all the employees of the Selective Service System with whom I have associated. It is clear to me, however, that they have performed well in spite of the law's gross inadequacy. I will look forward with great interest to the outcome of your Subcommittee's hearings.

Respectfully yours,

RONALD A. MAY.

Mr. President, I have but one final point in support of the proposed legislation. General Hershey and others who have opposed this bill have used the argument that it is a mockery of justice to create a legal right which some sectors of our country—namely, the poor—would be unable to take advantage of. Neighborhood Legal Services, an arm of the war on poverty, testified before my subcommittee that if they had the right to represent the poor young man before the local draft board, they would do so. The American Bar Association and others concerned with extension of legal services have assured me that if the right exists, it will be implemented. All that this amendment is designed to accomplish is to create this legal right—to reenforce in the minds and hearts of young men throughout this Nation that law exists to help and not to punish. It will be a mockery of justice if this law is not enacted without delay. Therefore, I urge every Senator to vote for the pending amendment.

SUBCOMMITTEE MEETING DURING SENATE SESSION

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senate Permanent Subcommittee on Investigations be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Is there objection?

Mr. ANDERSON. Mr. President, reserving the right to object——

Mr. JACKSON. Mr. President, I wish to point out that we have witnesses present from Newark, N.J. We are holding hearings in connection with the riots of last year. It is very important. They have been waiting here for 2 days now. I only wish to make that very important point.

It is my understanding that a similar situation exists with respect to Senator MUSKIE's subcommittee, and the Senate has granted permission in that case.

Mr. ANDERSON. The same story applies all the way through. We had to knock some off. I do not object. I believe it is a bad situation.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTIONS 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 joint resolutions:

S. 561. An act to authorize the appropriation of funds for Cape Hatteras National Seashore;

H.R. 15131. An act to amend the District of Columbia Police and Firemen's Salary Act of 1958 to increase salaries, and for other purposes;

H.R. 15364. An act to provide for increased participation by the United States in the Inter-American Development Bank, and for other purposes;

H.R. 15822. An act to authorize the Secretary of Agriculture to establish the Robert S. Kerr Memorial Arboretum and Nature Center in the Ouachita National Forest in Oklahoma, and for other purposes;

H.R. 15863. An act to amend title 10, United States Code, to change the name of the Army Medical Service to the Army Medical Department;

H.R. 16409. An act to amend the District of Columbia Teachers Salary Act of 1955 to provide salary increases for teachers and school officers in the District of Columbia public schools, and for other purposes;

S.J. Res. 142. Joint resolution to provide for the reappointment of Dr. Crawford H. Greenewalt as Citizen Regent of the Board of Regents of the Smithsonian Institution;

S.J. Res. 143. Joint resolution to provide for the reappointment of Dr. Caryl P. Haskins as Citizen Regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 144. Joint resolution to provide for the reappointment of Dr. William A. M. Burden as Citizen Regent of the Board of Regents of the Smithsonian Institution.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

The Senate resumed the consideration of the bill (S. 917) to assist State and local governments in reducing the incidence of crime. To increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

Mr. HART. Mr. President, I wish to thank the able Senator from Missouri [Mr. LONG] for raising the point which is now pending. The Senator made reference to hearings that were conducted by his subcommittee a few days ago when the Director of the Selective Service System, General Hershey, gave the committee his views as to the wisdom of the proposal. General Hershey opposed strongly the introduction of a lawyer at the selective service office when a young man questions his classification.

Having listened to the testimony at the hearings, I am convinced that the presence and the availability of a lawyer for a young man is desirable. I would hope very much that the Senate, given this opportunity, will insure to the young American who is called upon to defend his Nation that he may have the assurance that he is properly classified. In some situations the only way the young man can have complete assurance is to insure that there is available to him the advice of counsel at that very first step.

Clearly, this amendment is not aimed at any Supreme Court decision. As far as I know, the Supreme Court has not spoken to this point. It is, however, aimed to insure that rights which we instinctively think are available to each of us are made available to the young man whom the selective service system proposes to put in the uniform of his country.

As the Senator from Missouri reminded us, there has been a gesture made in this direction in the form of the appeal agent. The appeal agent is a lawyer with two clients. He is hired by both sides, or in any event, he plays the unhappy role of representing both sides. He is advertised to the young man as the person to whom the young man can go for advice and counsel. At the same time, as General Hershey confirmed, that lawyer is expected to tell the Government anything he learns about the young man which might indicate that the young man is in violation of the law or that he seeks to avoid service.

I think that even the nonlawyers among us would recognize the sort of schizophrenic situation in which a conscientious lawyer finds himself. The letter which the Senator from Missouri just read from the member of the Missouri bar makes very clear this dilemma.

We are told also that under the selective service law, the young man, if he feels he has been improperly classified, could take an appeal. It is an appeal made from a record that must be prepared, as a result of the selective service meeting, which the young man is given the opportunity to attend, but not with counsel present.

Mr. President, is it not straining just a little to suggest that an 18-year-old boy can go to a selective service office, be denied the right to have counsel accompany him, but there make a record which will be adequate on review to sustain his claim of improper classification because, even on the review, counsel is not permitted to argue the case?

Mr. LONG of Missouri. The Senator is correct.

Mr. HART. Mr. President, does not that strain our imagination a little even though we have in mind the most brilliant 18-year-old in the land, and a good many of those young men called to the Selective Service System are not likely candidates for selection as the most brilliant young 18-year-olds.

It is not only the young 18-year-old, lacking experience, who has a problem. This situation was brought to my attention very dramatically in a letter I received in January of this year which makes reference to a more mature man, a rather successful businessman, who had a problem that was created because we do not have on the books the measure that the Senator from Missouri now gives us an opportunity to put on the books.

I know the lawyer who wrote the letter. He is an able member of the Michigan bar.

Mr. President, perhaps the most persuasive way to present this matter is to merely read the letter. The letter reads as follows:

JANUARY 24, 1968.

Hon. PHILIP A. HART,
U.S. Senate, Washington, D.C.

DEAR SENATOR HART: The other day, in representing and advising a client in a matter involving a Federal Agency, I had an experience which shocked me and which I feel should be brought to your attention. Briefly, this is what happened:

I have a client who is a businessman (by no means is he a "protester"); he had recently been classified 1–A and he sought my advice concerning a change in his Selective Service Classification. I felt he had grounds for a classification other than 1–A, and wrote for him a letter to his local board requesting a personal appearance before the Board. Further, he was advised concerning the necessary and proper documentary evidence to be obtained for conclusion in Selective Service file, and so that he could support his claim for a re-classification.

On the day appointed for his appearance before his Selective Service Board, I accompanied him. His name was called and as we were about to enter the Board room, he was asked if I was his "witness." He replied "No, he is my attorney." We were both then advised that I could not attend the hearing: that the Board's regulations specifically prohibited lawyers from advising registrants. I was stunned (and embarrassed)! I was barely able to put the accumulated documentary material in his hand when my client was urged into the hearing room. I sought a few minutes private counsel with my client before his appearance to brief him on what I had intended to say on his behalf. This was denied, and the door slammed in my face.

The Clerk of the Board then referred me to a form letter earlier sent to the registrant (my client). It says, in part:

"Each local board has available a Government Appeal Agent to aid you with a personal appearance, an appeal, or any other procedural right. The Appeal Agent or his representative will give you legal counsel on Selective Service matters at no charge." (SSS Form 217. Rev. 5–11–67.)

And the Clerk further directed me to Selective Service Regulation 1624.1. This regulation recites that every registrant has an opportunity to appear in person before his local board, and the Board has the discretion to permit a witness, an advisor, or another to appear with him. But the regulation concludes:

"Provided further, That no registrant may be represented before the Local Board by anyone acting as attorney or legal counsel."

I immediately protested to the Clerk and told her that this could only mean that as an attorney I could not appear *in stead* of the registrant, but certainly, I could appear *with* him. I was again refused.

At this point, my client re-appeared, his interview with the Board was over. I estimate that the total elapsed time was 4 minutes, or less. We left the premises.

My client advised me that he had a short conversation with the Board; that the Board *refused* to accept all of his documentary material (e.g., The registrant had certain letters, stating facts, and requesting his deferment. The Board counted the number of letters, but refused to read or receive them.) He was advised by the Board that if he disagreed with their forthcoming decision, he could appeal to the Appeal Board within 30 days.

I have attempted to present the foregoing as factually as possible and without argument, although I am still incensed. Not only do I protest the degradation of the legal profession, but I am particularly upset because of the failure to accord this man the protection that the law allows. A Selective Service Appeal Board considers only material in a registrant's file. This man was refused the opportunity to present material. (I mailed the material to the Board, the next day. However, we have subsequently been advised that his classification was continued. This was before the material had a chance to reach the Board.)

But, it seems to me, that this man has been treated unfairly and arbitrarily.

I interject parenthetically to say, would not most of us agree?

The letter continues:

And if this was an isolated incident, I would feel less upset. Upon communicating with attorneys who have had more of the recent dealings with draft boards than I have, it comes to light that this is common. It is standard practice to refuse private counsel to a draft registrant. Apparently the Selective Service System feels that it adequately protects young America by having its own set of Advisors for them.

I have subsequently been made aware of decided cases which generally hold that, since this is not an adversary proceeding there is no requirement for an attorney to cross-examine witnesses. His counsel is thus not needed. However, the problem is other than that. An attorney advises as well as examines. And he advises particularly to the case at hand. It seems to me to be improper to permit by regulation, an advisor or counsellor provided that he is *not* an attorney. It further seems to me improper (through the combination of the letter, quoted above, and the refusal to permit access to the hearing) to infer to a registrant that *only* the government appeal agent can advise on the legalities and procedures of the Selective Service law. You will forgive the comparison, but this appears to be akin to a system which allows only the public prosecutor to give advice and counsel to a person charged with crime!

I repeat again, my client, this registrant, is by no means a "protester", he has no political motives, nor is he championing a cause. He simply has a position to put fairly, honestly and accurately before the Board. Since the system, through its regulations and interpretations thereof, effectively bar this to any but the most sophisticated of persons, the System should be corrected.

Mr. President, should it not be corrected? If this occurs in this land, are we really protecting that young American to whom the call goes out to serve his country, to defend our basic freedoms, in order to insure that our traditions, which, incidentally, include the fullest opportunity for every American to make his case, shall be secure?

Here is a lawyer who had the door slammed in his face at a draft board when he sought to accompany a businessman who wanted to make a record on which the board could make a judgment as to his classification.

To me, it just does not add up.

As I understand it, the only way we can correct it is to insure that an American does have the right to have a lawyer accompany him when the record is made on which a judgment shall be rendered on who shall be sent to fight and die.

I have listened in committees and on the floor of the Senate to many voices expressing grave concern that some rather substantial business operation does not have the fullest opportunity for complete and adequate hearing before some regulation is established which may affect or impinge upon that business operation. There is no lack of sensitivity about that.

What about John Jones, 18 years old?

Does he, too, not have the right to the same kind of careful, prudent development of the record on which a judgment

shall be made that does impinge on John Jones?

If there is that kind of sensitivity about insuring that trade unions shall have full and fair opportunity to be heard and adequately represented by counsel at every step, if there is that kind of sensitivity and concern that large business firms shall not have administrative agencies establishing regulations or making judgments with respect to them except as they are given every opportunity at every step, including the first, to be represented by counsel, then what about John Jones?

I would hope very much that this safeguard is accorded him and that the Senate will adopt the amendment.

Mr. LONG of Missouri. Mr. President, will the Senator from Michigan yield?

Mr. HART. I yield.

Mr. LONG of Missouri. Is not the Senator aware of the fact that the Selective Service Act is a very complicated and legal document, and that additional lengthy regulations have been promulgated by the Service to implement it?

Mr. HART. That is my understanding.

Mr. LONG of Missouri. Does not the Senator know that one of the many problems we have is the technical problem of deferments, such as problems of education and business connections? One needs technical training to determine whether those rights are being protected. Specifically, could an 18-year-old decide all that for himself?

Mr. HART. I happen to be the father of four boys, one of whom has run through this mill. He is a smart kid. So far as that goes, he is the smartest one of the eight children I have. I certainly would not expect him to march into that selective service office and make a record on which an appeal could be taken.

Mr. LONG of Missouri. Does not the Senator know that one cannot take counsel in with him to represent him when he goes before a draft board?

Mr. HART. I do not know whether they do. I am a lawyer. I am his father.

Mr. LONG of Missouri. They have ruled that a father, if he happens to be a lawyer, cannot come in.

Mr. HART. It would have to be a pretty solid door to keep a parent out, if he felt his boy had a valid claim to reclassification.

Mr. LONG of Missouri. I think the Senator is right. But there have been some cases where the father was a lawyer and he could not come before the board, although other individuals, otherwise trained, could represent them.

Mr. HART. If I have personalized or emotionalized this thing, let me desist at once and put it in its barest, skeleton form. The Selective Service System is established under laws which, as the Senator from Missouri points out, are very complex, which seek to assure fair selection. A key step is when the young man questions his reclassification before a local board. Why can we not let a lawyer go with him?

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. HART. I yield.

Mr. LAUSCHE. I would like to have either of the proponents who have spoken on this measure inform me whether in the history of our country there ever was written into the law the proposal that in the selective service a selectee shall have the right to have counsel in the hearing.

Mr. HART. I would assume not. I do not know. I would assume a great many people in this country, just as did the member of the Michigan bar who wrote me, assume that a young man has a right to counsel when the question of his classification is being established. Now we know that he is denied that right. On notice, what do we propose to do about it?

The fact that it did not happen in the Revolutionary War or the Civil War I think is irrelevant. I think this lawyer represents a good many lawyers in this country who just assume—who just by instinct assume—that when they have a corporate client who seeks an application to be chartered in the State or to be given a franchise to operate something, why, of course, the lawyer can go with him at the very first step. They assume that when a young man is called and the question is, "How shall we classify this fellow?" a lawyer may accompany him. But he may not. And I argue that, in the long run, everyone of us would be stronger if we got rid of this thing which, when it comes to notice generally, I think shocks people.

Mr. LONG of Missouri. Mr. President, will the Senator yield to me so that I may answer the Senator?

Mr. HART. I yield.

Mr. LONG of Missouri. As I understand, this prohibition is not written into the law. The prohibition against a lawyer going in with the draftee is an arbitrary ruling issued by the Selective Service Director. Congress has not spoken on it. What we are trying to do is have Congress speak to give such a boy that right and overrule the arbitrary ruling.

Mr. HART. That makes the point sharper. This is not a proposal to change the law. The Administrator has said, "No lawyer." Congress now is faced with the question, Is that the way we want our agent to operate?

Mr. LONG of Missouri. It is the only agency of the Federal Government, to my knowledge, which prohibits a lawyer from representing a client before a Federal agency.

Mr. HART. I do not know whether it is the only agency, but I would be rather confident in my guess that, if trade unionists or business leaders found that any agency had slammed the door in the face of their lawyer, we would have heard about it. So my guess is that the Senator from Missouri probably is right. This is probably the only Federal agency that stops a person from coming before it with a lawyer.

Mr. LAUSCHE. Mr. President, will the Senator yield for a further question?

Mr. HART. I yield.

Mr. LAUSCHE. Having in mind the draft-card burners, the Browns, Carmichaels, and others, if at this time we introduce this innovation, will it not be lending strength to those individuals that I have identified, in their efforts to stop our Government from utilizing its strength in the fullest degree in the war with which we are faced?

Mr. HART. Each Member of the Senate would have to answer that question for himself. I think one could make a fairly good argument that Stokely Carmichael could add a paragraph to his standard speech if Congress refused to permit young Americans to have lawyers at the board. But, as the Senator from Ohio says, possibly it would encourage somebody to burn another card. I do not know. In my own book, I would be a lot more comfortable debating Stokely Carmichael if I knew I did not have to explain why a young American was not allowed a lawyer.

Mr. LAUSCHE. If I may comment on that, my distress lies in the fact that we have the draft-card burners, and I do not recall, at least in my lifetime, a time when our Government was confronted with that situation. My fear is that action by the Congress now will act as a stimulant and an inducement to those who do not want to respond to the call of their country.

I can see very well that there is strength in what the Senator from Michigan said just a moment ago in his comment upon my question.

Mr. HART. Mr. President, I hope we adopt the amendment.

Mr. McCLELLAN. Mr. President, without arguing the merits of the proposed amendment, which I shall not do, because I think it is unnecessary, the amendment is irrelevant to the pending bill. What we have before us is a law enforcement bill that was duly processed, under the rules of procedure of this body, by the Senate Judiciary Committee. The subject matter now before us, presented by this amendment, is a matter that, in my judgment, is under the jurisdiction primarily of the Armed Services Committee of this body, the committee having jurisdiction over the Selective Service Act.

According to my information, the Armed Services Committee has not considered the amendment. A similar amendment was presented to this body a year ago, and the Senate rejected it on May 11 of last year by, I believe, a vote of 55 to 17. So the Senate has rejected it.

It seems to me if we are going to preserve the propriety and order of jurisdiction in the handling of the business of the Senate, the amendment should be referred to the standing committee of the Senate that has jurisdiction of the subject and the act that the amendment undertakes to amend.

The distinguished chairman of the Armed Services Committee [Mr. RUSSELL] is present, and he probably will have something to say about it. In the meantime, I ask unanimous consent to have printed in the RECORD at this point a copy of a letter I received this morning from General Hershey, the Director of the Selective Service System.

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

NATIONAL HEADQUARTERS,
SELECTIVE SERVICE SYSTEM,
Washington, D.C., May 22, 1968.

Hon. JOHN L. McCLELLAN,
Chairman, Committee on Government Operations, U.S. Senate.

DEAR MR. CHAIRMAN: This is in response to your request for my views on the amend-

ment to S. 917, offered by Senator Long of Missouri, and which is identical with S. 3303 concerning which I testified before Senator Long's Subcommittee on Administrative Practice and Procedure on May 16, 1968.

The enactment of this amendment would seriously jeopardize the ability of the Nation to maintain adequate armed forces in my judgment.

The nature of the function of any compulsory system to mobilize the manpower of the Nation in times of crisis is such that a prompt and unhesitating obedience to orders issued in that process is indispensable to the attainment of national defense.

This is equally true as it applies to those persons who are members of the military service, those who are in the Reserve or the National Guard and subject to call-up to active duty as well as those who, under the law, are members of the national militia and upon whom the Congress, in military service compulsory legislation, has placed a current and continuing obligation to serve. The overriding consideration in all such legislation has been to insure the accomplishment of this objective without interference and to this end the Congress has carefully provided against any type of unnecessary delay in making an individual immediately available for military service. At the same time the Congress realized the importance of maintaining the national interest to the maximum extent possible in relation to the needs of the armed services and to this end made provisions and established machinery to permit temporary delay of military service in cases where it was clearly demonstrated that immediate withdrawal of an individual from the national economy would at that time adversely affect the national interest.

There is no more basis for applying the provisions of the amendment to the determinations of the local boards of the Selective Service System concerning the national interest than there is to boards that have been set up to make like determinations with respect to recall, both voluntary and involuntary, to active duty of persons with Reserve obligations.

Every registrant, of course, may use legal assistance or counsel in the preparation or documentation of information to be submitted to the local boards for their consideration in classifying or reclassifying individuals with respect to claims for induction delays in the national interest. As a matter of fact, since 1940 there has been in each local board area an appeal agent, normally a lawyer, available to assist every registrant and who has the authority to take appeals at the request of the registrant or on his own initiative when he deems the national interest requires such action. Other volunteers serve as advisors to registrants to assist registrants in presenting their cases.

The requirement of the amendment that every registrant be afforded an opportunity for personal representation and to present testimony and other evidence in all of the proceedings in the local board process, combined with the steps necessarily implied to make this representation effective would result in the very type of delay that would be fatal to the accomplishment of the purpose of the law, for local boards annually perform many millions of such proceedings.

Sincerely yours,

LEWIS B. HERSHEY,
Director.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. McCLELLAN. I yield.

Mr. LAUSCHE. The Senator has just mentioned the 17 to 55 vote which was taken a year ago. What was the issue in that vote?

Mr. McCLELLAN. As I recall, it was the same issue. I believe I have it here. It will be found in the CONGRESSIONAL RECORD, volume 113, part 9, pages 12502–12504. It is substantially the same amendment and was voted down by a vote of 17 to 55 just a year ago.

Mr. President, I ask unanimous consent to insert those pages at this point in the RECORD.

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

[From the CONGRESSIONAL RECORD, May 11, 1967]

Mr. MORSE. Mr. President, I send to the desk an amendment and ask that it be stated. It will not take me 5 minutes on this amendment.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. On page 5, between lines 17 and 18, insert the following:

"(5) Paragraph (3) of section 10(b) (50 App. U.S.C. 460(b)(3)) is amended by inserting after the sixth complete sentence of such paragraph a new sentence as follows: 'Each individual shall be afforded the opportunity to appear in person and be represented by counsel before the local board having jurisdiction over him for the purpose of objecting to the classification assigned to him by such board, and to present testimony or other evidence to the local board regarding the classification assigned to him.'

"On page 5, line 18, strike out '(5)' and insert in lieu thereof '(6)'."

Mr. MORSE Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MORSE. Mr. President, earlier in my major speech in which I covered all of these amendments, I pointed out the absence of the right to counsel in the case of these draft board appeals.

RIGHT TO COUNSEL

I shall repeat what I said earlier on this subject. One of the vagaries of the present law is that persons appealing their classification to their local boards are not allowed representation of a lawyer. A number of legal authorities have pointed out that Selective Service boards are more than administrative bodies—they are indeed quasi-judicial ones and in fact in one sense they have life and death power over individuals coming before them. It is argued that in no other segment of our legal structure is a person called before a tribunal where he does not have the right to counsel guaranteed to him by the fifth, sixth, and 14th amendments to the Constitution.

The Selective Service's answer to this is that the local board's appeal agent, who is in most cases an attorney, is also charged with upholding the rights of the registrants.

I do not believe any attorney can serve two masters. Either he works for the board, or he does not. Again in no other area of our legal structure is the defendant forced to have the prosecutor as his attorney.

I think that the appellants are entitled to be represented by counsel before the local draft boards. That is the purport of the amendment. I submit it.

Mr. RUSSELL. Mr. President, I do not have any deep feeling on this amendment.

I am glad to give the benefit of my experience with the matter over the period of time since the first Draft Act of 1940.

The statement just made is true—a lawyer is not permitted to go before the local board and plead the case of the registrant.

The reason for that is that it is an administrative procedure, and is not a strictly legal procedure.

Their decisions are based on matters other than the law. They are based on matters of judgment. Each person under the law is considered for selection on the basis of his own individual status. The board's proceedings are more administrative than legal.

The registrants do have a representative. There is an appeals agent provided by law. The pending bill contains an amendment pertaining to this matter. For some reason there have been rulings that Reserve officers cannot serve as appeals agents.

We amended the law to provide that Reserve officers can serve as appeals agents.

There is one other aspect which goes to the sociological aspect of the matter. This is that if we are going to give a lawyer the right to go into the appeal board and plead the case, this would give some advantage to the very wealthy registrant who is able to employ a lawyer to argue his case, while the appeals agent is now available under the existing law to every registrant.

I understand the appeal of having a lawyer represent you.

This is more in the nature of an administrative matter within the draft board. There is an appeals agent available to represent the man.

To me, the main argument against the pending amendment is that the wealthier registrants will have an unquestionable advantage over the poorer ones who are not able to get what some might call a high-powered lawyer to go in and plead his case before the draft board.

For that reason, I shall vote against the amendment.

Mr. MORSE. Mr. President, of course the appeals officer does not represent the registrant. He represents the board. As I stated in my main remarks, we cannot justify having a prosecutor serve also as an attorney for the defendant.

Furthermore, as to the argument that this is an administrative process, a great many of our rights are determined under administrative processes.

It is a novel argument to argue that because part of the proceeding is administrative, one is not entitled to be represented by counsel.

There is not, in my judgment, the slightest basis for the argument that if one has a case in his local community, he will not be able to get a lawyer in that community to handle the case for him.

We will find that most of them would be on a charity basis in the case of the poor registrant to whom the Senator from Georgia referred.

We are dealing here with very precious rights.

The fact is that in spite of our confidence in most boards, there are some very difficult community problems arising in the administration of the draft law through the local draft boards.

A good many communities from time to time will find themselves deeply concerned over allegations as to miscarriages of justice in the handling of these cases.

That is why we have this system of government by law. Certainly one who feels he needs the counsel of a lawyer in whom he has confidence ought to have counsel to represent him in a hearing if he thinks that situation warrants such advice.

Mr. RUSSELL. Mr. President, I do not know whether I correctly understood the Senator from Oregon. I understood him to say that it would be the same person in both cases. That is not so. The appeals agent does not represent both the board and the registrant in the same proceeding.

There is a counsel for the registrant, and the appeals board has an appeals agent in addition. They are not one and the same person.

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

Mr. RUSSELL. I yield.

Mr. HOLLAND. Mr. President, does the same

procedure which operated throughout World War II still prevail, that there is always an appeal to an appeals board and that if the appeals board decision goes against you there is always an appeal to the Selective Service head in the State, and if that goes against you, there is still the right of an appeal to Washington?

Mr. RUSSELL. If a man gets one vote in his favor on the State board, he can appeal to Washington. An appeal can be had. This is just a question of whether the lawyer should be permitted to go into the local Selective Service board when they are making their classifications.

Mr. HOLLAND. Mr. President, it seems to me, if the Senator will let me say so, that to initiate this precedent would mean that we would make the board subject to court arguments before there were decisions from the local boards and the appeal board, which would make it more difficult to get the outstanding citizens who customarily serve on both of those boards to serve.

Mr. MORSE. Mr. President, of course, the representative of the draft board is not considered the representative of the litiagnt who is dissatisfied. He does not want to have anything to do at that stage with any representative through the draft board. He wants his own counsel. We lawyers know that particularly in the administrative law process, once you get an administrative ruling against you. the presumption is going to follow that ruling on up the ladder. You should guarantee or give the assurance to the individual citizen involved that he has the right of counsel at the very beginning of the process. I believe that is basic to guaranteeing a fair administration of justice in this country.

Mr. RUSSELL. I understand that the Committee on the Judiciary, in revising the Administrative Procedure Act, considered this matter carefully and did not provide for an attorney to appear before local boards when they are classifying registrants or hearing appeals.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. RUSSELL. I yield.

Mr. ERVIN. I should like to preface my question by stating that I believe in the right of counsel in all circumstances. However, is this not the present system, and the system which this bill would continue, on this aspect of the matter: A registrant can procure the services of a lawyer to draw any kind of affidavits to be presented by him, in his behalf, before the board? They just do not let him make an oral argument?

Mr. RUSSELL. He can get the assistance of counsel to prepare any kind of documents to sustain his position and to prepare affidavits and anything else to show his position in writing to the board.

On page 614, General Hershey discusses this matter in his testimony, and he indicates that appeals are very easy to come by. If a man does not get what he thinks he should from the board, all he does is say, "I do not like it," and it has to be transferred automatically to the State board. If one member of the State board agrees with him, it goes to the national board. This is about the simplest appeals procedure known to our law—this matter of appealing the decisons of Selective Service.

Mr. ERVIN. The only restriction on his right of assistance of counsel is that he cannot have counsel to make an oral argument before the board?

Mr. RUSSELL. The Senator is correct.

Mr. BROOKE. Mr. President, will the Senator yield for a question?

Mr. RUSSELL. I yield.

Mr. BROOKE. Do I correctly understand that the answer of the Senator from Georgia to the question previously asked was that a lawyer can go before the appeal board?

Mr. RUSSELL. No.

Mr. BROOKE. Can sit beside his client, or the registrant?

Mr. RUSSELL. No.

Mr. BROOKE. But he just cannot make oral argument?

Mr. RUSSELL. No. I understand the Senator from North Carolina to say that the lawyer can help him prepare his case or file a brief, give the registrant a brief. I did not mean to say that the lawyer could go before the board and sit by the registrant, because the existing procedure does not permit an attorney to go in with the registrant and sit beside him.

Mr. BROOKE. An oral argument is not the only limitation. A lawyer cannot go in with the registrant.

Mr. RUSSELL. The Senator is correct.

Mr. BROOKE. He can do things outside the board, but he cannot go in.

Mr. RUSSELL. The Senator is correct.

Mr. MORSE. It is this place where he should have the right of the oral representation of his counsel. The local draft boards have lawyers on them; and this registrant says, "I want my lawyer to come in and present my case for me." Does anyone think that is going to put the draft board at a disadvantage? But it would give an equal opportunity for justice of the registrant, to see that all his rights are presented by a lawyer competent to present his view. Keep in mind who some of these registrants are. Many of them do not possess much ability and are not capable of adequately representing themselves before the board. That is where the registrant needs the representation of his counsel.

I am at a loss to understand why there should be any question about the presence of his lawyer at that stage. Certainly, the board would not be at a disadvantage, if the board is sound in its policies. But that young American should be represented at that point by his counsel, if he wishes.

The PRESIDING OFFICER. The question on agreeing to the amendment of the Senator from Oregon [Mr. MORSE]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Pennsylvania [Mr. CLARK], the Senator from Mississippi [Mr. EASTLAND], the Senator from Arizona [Mr. HAYDEN], the Senator from Alabama [Mr. HILL], the Senator from New York [Mr. KENNEDY], the Senator from Montana [Mr. MANSFIELD], the Senator from Montana [Mr. METCALF], the Senator from Virginia [Mr. SPONG], the Senator from Mississippi [Mr. STENNIS], the Senator from Maryland [Mr. TYDINGS], and the Senator from New Jersey [Mr. WILLIAMS] are absent on official business.

I also announce that the Senator from Arkansas [Mr. FULBRIGHT] and the Senator from Hawaii [Mr. INOUYE] are absent because of illness.

I further announce that the Senator from Connecticut [Mr. DODD], the Senator from Indiana [Mr. HARTKE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Florida [Mr. SMATHERS], and the Senator from Alabama [Mr. SPARKMAN] are necessarily absent.

I further announce that, if present and voting, the Senator from Mississippi [Mr. EASTLAND], the Senator from Alabama [Mr. HILL], the Senator from Hawaii [Mr. INOUYE], the Senator from Florida [Mr. SMATHERS], the Senator from Alabama [Mr. SPARKMAN], the Senator from Virginia [Mr. SPONG], and the Senator from Mississippi [Mr. STENNIS] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Vermont [Mr. AIKEN], the Senator from Hawaii [Mr. FONG], the Senator from Michigan [Mr. GRIFFIN], and the Senator from Idaho [Mr. JORDAN] are absent on official business to attend the 10th Canada-United States Interparliamentary Conference.

The Senator from Kansas [Mr. CARLSON], the Senator from New York [Mr. JAVITS], and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The Senator from New Jersey [Mr. CASE] is absent on official business.

The Senator from California [Mr. MURPHY] is absent on official committee business.

The Senator from Iowa [Mr. HICKENLOOPER] is detained on official business.

If present and voting, the Senator from Hawaii [Mr. FONG], the Senator from Iowa [Mr. HICKENLOOPER], the Senator from Idaho [Mr. JORDAN], the Senator from California [Mr. MURPHY], and the Senator from Illinois [Mr. PERCY] would each vote "nay."

The result was announced—yeas 17, nays 55, as follows:

[No. 116 Leg.]

Yeas, 17: Baker; Bartlett; Brooke; Burdick; Church; Cooper; Gruening; Hart; Hatfield; McCarthy; Mondale; Morse; Moss; Nelson; Prouty; Yarborough; Young, Ohio.

Nays, 55: Allott; Anderson; Bayh; Bennett; Bible; Boggs; Brewster; Byrd, Va.; Byrd, W. Va.; Cannon; Cotton; Curtis; Dirksen; Dominick; Ellender; Ervin; Fannin; Gore; Hansen; Harris; Holland; Hollings; Hruska; Jackson; Jordan, N.C.; Kuchel; Lausche; Long, Mo.; Long, La.; Magnuson; McClellan; McGee; McGovern; McIntyre; Miller; Monroney; Montoya; Morton; Mundt; Muskie; Pastore; Pearson; Pell; Proxmire; Randolph; Ribicoff; Russell; Scott; Smith; Symington; Talmadge; Thurmond; Tower; Williams, Del.; Young, N. Dak.

Not voting, 28: Aiken; Carlson; Case; Clark; Dodd; Eastland; Fong; Fulbright; Griffin; Hartke; Hayden; Hickenlooper; Hill; Inouye; Javits; Jordan, Idaho; Kennedy, Mass.; Kennedy, N.Y.; Mansfield; Metcalf; Murphy; Percy; Smathers; Sparkman; Spong; Stennis; Tydings; Williams, N.J.

So Mr. MORSE's amendment was rejected.

Mr. McCLELLAN. Mr. President, the distinguished Senator from Missouri [Mr. LONG], in support of his motion, read a letter from an attorney from my State who is serving as legal agent to the selective service board at Little Rock. I have read this letter with some interest. I note that it does not cite a single instance in which any claimed wrong has been done. I note that he concludes his letter by saying:

> I feel compelled to conclude this letter by stating as strongly as I can that my criticism of the law is not directed at the administration of the law by the Local Board with which I am associated. That Board is composed of extremely fine individuals who have done a splendid job at considerable personal sacrifice. They have never hesitated to reopen cases at my request and to accommodate me on hearings. The same can be said for all the employees of the Selective Service System with whom I have associated. It is clear to me, however, that they have performed well in spite of the law's gross inadequacy. I will look forward with great interest to the outcome of your Subcommittee's hearings.

Mr. President, if it is working well in that board of which this attorney writes, we could, of course, have the law amended and provide for lawyers for each selectee, and we could pay for their services at Government expense; but here is an attorney who makes a complaint about the law, and then says it is working, apparently, beautifully so far as its administration in the area where he is associated.

I simply think that this matter is something that should not be an issue in the consideration of this anticrime bill.

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

Mr. McCLELLAN. I yield.

Mr. HART. On the last point, as to

the appropriateness of the amendment on the bill, I would not question the Senator's position. The Senate can decide that point. But the Senator was making the point that the Arkansas lawyer was assuring us that no unfairness, as far as he knew, had developed in the operation of that board.

Mr. McCLELLAN. I just read what he said in his letter. It speaks for itself.

Mr. HART. A moment ago I read a letter from a Michigan lawyer, who described the problem he had with his businessman client. Would the Senator from Arkansas agree that there was unfairness in that case?

Mr. McCLELLAN. I do not recall the case. I could not answer that. I do not think we could say there was unfairness unless we knew the facts.

Mr. HART. I thought the Senator heard me read the letter.

Mr. McCLELLAN. We all know that administering the Selective Service Act is one of the most difficult and thankless jobs our Government has. The question is, at the moment, is the Senate simply going to take over the functioning of its regular standing committee, which has the jurisdiction and the responsibility to take evidence on an amendment or a bill of this nature and come before the Senate with a recommendation as to the character of legislation that may be needed to correct any inequities or injustices that now prevail?

I do not wish to shut off debate, but I hope that at an opportune time the distinguished chairman of the Armed Services Committee will have something to say about it. I am sure he will, and will express his views regarding the bypassing of the jurisdiction of his committee.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. YARBOROUGH. Mr. President, as a result of my experience as a practicing lawyer for more than 20 years, and as a judge for more than 5 years, I have had some experience in hearing the various rights of people urged. Of course, 25 years does not allow enough time to know all of the rights, nor the possible deprivations of rights under the American system. But based on my total experience in life, I think that one of the most basic denial of rights under our governmental system is the denial to a registrant under the Selective Service System of the right to counsel before a draft board. There are more than 4,000 draft boards in the United States. Are we to say they have some divine powers always to render justice, higher than those of the educated and experienced judges who preside over our courts? I think the question answers itself.

Mr. President, I shall not speak at length on this subject, because I spoke on it last Monday. My remarks are in the May 20, 1968, RECORD at pages 13983 and 13984, and I shall not repeat them today.

I support this amendment by Senator LONG of Missouri. I think it is necessary, if we are going to have even basic justice for the millions of young men called to military service by their draft boards. Those who want the American people to have confidence in the draft boards had better wake up and recognize this fundamental right. There is a growing erosion of the confidence of the people in their draft boards.

This denial of counsel is not in any law of Congress. Congress has not passed any law saying that a draftee has no right to counsel. One arbitrary director of the Selective Service System, in section 1624.1(b) of the Selective Service Regulations, issued that order, which states:

> No person other than a registrant shall have the right to appear in person before the local board, but the local board may, in its descretion, permit any person to appear before it with or on behalf of the registrant: *Provided* . . . That no registrant may be represented before the local board by anyone acting as attorney or legal counsel.

Anybody else in the United States might appear before a draft board except the quarter of a million lawyers in this country. Mr. President, I think it is a disgrace that the Director of the Selective Service should thus show that he is afraid to have legal justice and fairness apply. He shows his distrust of lawyers, the courts, and justice. He says, in effect, "You can bring anybody with you, the whole town if you like, but not a lawyer."

I think this administrative order should be wiped off the governmental books of America. It is going to take an act of Congress to do it, though, because I do not think that the persons who wrote that denial of rights into their regulations will remove it voluntarily. I hope that no legislative body in this country will ever write such a thing into the law, and that no court will ever give it the dignity of its approval. Mr. President, Congress ought never to put its stamp of approval on what, I think, is an infamous regulation. Indeed, we should take action now, while the opportunity is before us, to eliminate this regulation altogether.

From listening to the people who came and talked with me when I was a practicing lawyer and a judge in Texas no one ever suggested that the members of the draft boards have a superior intellect, or a superior sense of justice or fairness over the Supreme Court of the United States, the Federal courts, the State courts, the quarter of a million lawyers in this country, and all the other people.

Draft board members are just human beings like the rest of us. They have no divine insight that would make them, by some mystic blessing, more capable of rendering justice than the rest of the people. They are not skilled in the law, and they might easily—though unintentionally—violate the legal rights of the registrant. An 18-year-old boy, who is not even allowed to vote, cannot be expected to even know his rights, much less protect them. Clearly the registrant needs and has a right to legal counsel.

If a man is threatened with a jail sentence of 6 months, he has a right to counsel; but if a young man is threatened, as here, with what may be a death sentence, he is denied that basic right. That is a prospect which every young man of 18 in this country must face.

There is an old saying among lawyers, and every lawyer knows that it is true, that any lawyer who tries to represent himself in a case has a fool for a client. Lawyers know that if they get into a case themselves, they become emotionally involved, and are incapable of that wise judgment necessary to properly prosecute a case for a plaintiff or to defend it in behalf of a defendant. I have seen a few lawyers try that, in my 5 years on the Bench, Mr. President, and they did not come out very well, trying to be both the witness on the stand and the lawyer at the counsel table. It is impossible.

Yet we place on the shoulders of this 18-year-old boy the burden of being his own counsel. We ask him to try to interpret the many complicated regulations of the Selective Service System for himself. We do not give this boy the right to know, with the assistance of people who are skilled and trained enough to advise him what his rights are.

I think what Selective Service has here seen fit to put into its regulations is a degradation of the bar of America and a derogation of every American's basic right to counsel. I do not know of any other place in the law or regulations of this country where there is such a bald refusal even to consider an individual's legal rights.

That has been promulgated here in Washington, and sent to all the draft boards throughout the country: "Don't let that man be represented by counsel. Let him bring in the whole town, if he wants to, but don't let a lawyer be among them." The local draft boards did not promulgate this denial of basic rights; Washington bureaucracy promulgated it.

Mr. President, even the Internal Revenue Service, when it calls in a citizen to investigate and render a decision on his tax bill, allows the citizen to bring legal counsel with him. We let huge corporations bring their entire legal departments with them when they appeal a tax ruling of the IRS, but we make an 18-year-old boy stand alone, without legal aid, when he appeals an administrative classification that may cost him his life.

Why do they say, "Do not let a lawyer in"? Mr. President, it is a psychological revelation that the man who promulgated the regulation wants no legal eye focused on the proceedings within the closed doors of the local draft boards. Oh, he gave himself away, as any psychologist will tell you, when he wrote a regulation like that.

Do not tell me that it was designed to get fairness in all cases. The regulation itself denies that. Fairness and justice were not the motive for writing that into the regulation.

Mr. President, I hope that the Senate will approve the Long amendment, and thus say that we will not support that glaring injustice any longer; that we will not support that insult to the judicial system, the courts, and the lawyers of America any longer; and that we will not make that 18-year-old boy be his own counsel, without training, any longer.

For the Selective Service System to work, it must have the support of people. As long as we have a draft system, we must have public support. We will not

increase that support, we will not increase the people's confidence, we will not increase the people's belief in the justice of the system, as long as we permit such unjust regulations to continue.

I hope that the Long amendment will be agreed to.

Mr. TYDINGS. Mr. President, I yield to no one in my admiration for the distinguished Senator from Texas and the distinguished Senator from Michigan. I think the amendment and the debate call the attention of the Congress and especially that of the Armed Services Committee to the widespread feeling in our country that the Selective Service System can be improved.

I voted last year against the conference report because it adopted the House version rather than the Senate version of Selective Service reform. However, I agree with the distinguished Senator from Arkansas [Mr. McCLELLAN] that the pending measure does not belong in S. 917. It is not a law-enforcement provision by any stretch of the imagination.

Unquestionably, some of the points made by the Senator from Michigan and the Senator from Texas are valid. They deserve the deep concern and consideration of the Senator from Missouri, the Senator from Mississippi, the Senator from Georgia, and others. But I do not think that this is the appropriate vehicle or the appropriate manner in which to introduce a complete change in our Selective Service System.

Mr. LONG of Missouri. Mr. President, will the Senator yield?

Mr. TYDINGS. Mr. President, I would prefer not to yield until I finish my statement.

Mr. LONG of Missouri. Very well.

Mr. TYDINGS. Mr. President, I think that our Selective Service System needs changes. I think it needs the reforms which the Senate passed last year. I think it needs close scrutiny.

There is no question that some draft boards have put themselves in the unconscionable position of acting as judges and attempting to punish young men for their political views. I think that is indefensible.

I do not think we can continue to permit this, but I also do not think that at this time we can, in a law enforcement measure, agree to an amendment, the repercussions of which could be to break down the Selective Service System.

It may be that there will come a time when we decide we do not want the Selective Service System. It may be that we should not have one. However, I cannot vote for the pending amendment at this time under these circumstances because none of us can predict its consequences.

I do not think this is the appropriate method and, therefore, I intend to vote against the amendment.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. TYDINGS. Mr. President, I now yield to the Senator from Missouri.

Mr. LONG of Missouri. Mr. President, the Senator suggested that the pending amendment would break down the Selective Service System. Could he be a little more specific and tell us how that could happen?

Mr. TYDINGS. Mr. President, I will be more specific. I am concerned that if each Selective Service Board in the Nation acts as a judicial body with lawyers, counsel, strict rules of procedure, guidelines, it might be possible to disrupt completely the activitives of the Selective Service System.

I think that if a step like this is taken, it should be taken only after exhaustive hearings and only on the basis of empirical data and definitive guidelines.

We should know what we are doing, what we are getting into, and what the results will be. We do not know what results will occur if we agree to the pending amendment. We do not know what it will mean in manpower or hours. We do not know what it would mean in delay.

I think that it could conceivably break down the operations of large draft boards in metropolitan areas. I do not think this is the way to operate. I do not think that this is the way to reform.

Mr. LONG of Missouri. Mr. President, we have a situation existing now in which a lawyer—the Government appeal agent—is involved in the picture, except that he is working both sides of the street. However, that practice has not broken down the Selective Service System.

Mr. TYDINGS. The Senator has not asked a question. If he has a legitimate question to ask, I will be glad to answer it.

Mr. LONG of Missouri. Mr. President, I assumed that was a legitimate question. I wanted to know the Senator's judgment.

Mr. TYDINGS. I have given the Senator my judgment.

Mr. LONG of Missouri. I do not want to argue with the Senator. However, with a lawyer working both sides of the street now, so to speak, that practice has not broken down the Selective Service System.

Mr. TYDINGS. Mr. President, I do not know to whom the Senator is referring. What is his derogatory reference to the lawyer working both sides of the street?

I have tried to explain why I oppose the amendment.

Mr. LONG of Missouri. The Senator has suggested that the pending amendment is not the proper vehicle.

Mr. TYDINGS. That is correct.

Mr. LONG of Missouri. Mr. President, I was entirely in accord with the crime-in-the-streets bill as originally proposed. However, quite a few suggestions and amendments have been incorporated in the bill both in and out of committee that, as a matter of fact, have no place in the measure. Wiretapping, for example, has been incorporated into the bill.

Mr. TYDINGS. Mr. President, I support S. 917. I do not support all the provisions of title II. I argued against them yesterday. However, S. 917, except for a few provisions with which I disagree, is a law enforcement measure.

The measure was argued long and hard in committee. At one point, we even tracked down the Senator from Missouri when in Missouri to get him to vote by telephone because he could not attend the markup session.

We had many long sessions in committee. However, at no time did we ever discuss reorganization of the Selective Service System, and at no time was it suggested that this should be in the safe streets bill.

I fail to see at this time—and perhaps further argument will enlighten me—that the pending amendment belongs in the Safe Streets Act.

Mr. LONG of Missouri. Mr. President, does the Senator feel that a young man 18 years of age who is called by the selective board and is eager to serve his country, but wants to be sure of his legal rights, is protected when he cannot have counsel?

Does the Senator not think this situation had great influence in the creation of riots and crimes and perhaps in the burning of draft cards by boys, and that it might not have happened if these boys had felt their rights had been protected before the selective service board?

Mr. TYDINGS. No, Mr. President, I do not think that had any influence. I think that the problems of so-called draft card burning relates directly to the position of the United States in the Vietnamese conflict.

I agree that many of us criticize the Selective Service System; but to say that the operation of the Selective Service System is alone, the basis of the draft card burnings or disorders on campuses is, I think, a specious argument.

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

Mr. TYDINGS. I am happy to yield.

Mr. ERVIN. The distinguished Senator from Missouri spoke about a boy who was eager to serve his country. Does the Senator from Maryland believe that a boy who is eager to serve his country would need to have a lawyer to appear in his behalf before a draft board?

Mr. TYDINGS. It is hard for me to see why he would.

Mr. LONG of Missouri. It might be that the boy was eager to serve his country legally——

The PRESIDING OFFICER. The Senator from Maryland has the floor.

Mr. TYDINGS. Does the Senator from Missouri wish to propound a question to me? If not, I yield the floor.

Mr. RUSSELL. Mr. President, I wish, first, to advert briefly to the jurisdiction involved in the amendment. The Senate has no rule of germaneness. I have never advocated one, and do not now. However, we have had rather an understanding among the various committees of the Senate that one committee would not invade the jurisdiction of another committee without giving that committee at least the opportunity to consider the proposed change and to determine the impact it would have upon the system affected by the bill or amendment.

This amendment is in the jurisdiction of the Committee on Armed Services. Unfortunately, I cannot move to refer the amendment to that committee. But when the Senators who wish to discuss the amendment have done so, I shall certainly move to lay the amendment on the table. If a bill is introduced on this subject, it should be considered by the Committee on Armed Services.

Mr. President, this discussion has generated a great deal of emotion. I am

always impressed by the distinguished Senator from Michigan [Mr. HART]. He can stir my lachrymal ducts more easily than can almost any other Senator. I was deeply touched by his argument as he led an 18-year-old youth around—John Smith, or whatever his name was—and told how he had been rebuffed or knocked down or stomped on. The truth of the matter is that not any 18-year-olds have been drafted up to this time; and under the law, they cannot be until they have reached 18½. The average age of draftees is about 20.

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

Mr. RUSSELL. I yield.

Mr. HART. I wish to make an explanation. About 3 weeks ago, my son attained the age of 18, and a few days later came back and told me he had been at the draft board. I assumed that that was routine.

Mr. RUSSELL. Young men must register at 18.

Under this amendment, a young man would be entitled to have a lawyer go with him when he went to register and the board would have to meet and have a hearing before they could even register the man.

Oh, I am aware, Mr. President, of the instinctive feeling in the breast of every American citizen about the right to counsel. We all have it. I was a lawyer of sorts for years. I made a living at it for 12 years before I was elected Governor of my State, and I do not want to do anything to hurt the lawyers.

But this amendment, while it provides a basis for making a strong emotional appeal, opens an avenue to indict every draft board in this country. I must say that I have been amazed by the attacks that have been made on these draft board members, who serve without any compensation whatever, out of a pure sense of duty to their country. I am amazed that they are so harshly criticized and that it is said that "draft boards are not better than anybody else, that they are not entitled to have any rights that are greater than anybody else's."

I do not know of anybody who has ever volunteered for service on a draft board. I am astounded by the speeches that have been made here today to impeach the integrity and the sense of fairness of these men. I resent this, because I have watched these boards through the years, and there are not any more patriotic people in this country than those who have served upon the local selective service boards.

They are not Federal officials, as was charged, I believe, by the Senator from Michigan. They are appointed on the recommendations of the Governors of the several States. It is true they are part of a Federal system of administration. But they are selected by the Governors of the several States.

Mr. President, if there is a thankless job under the canopy of God's heaven, it is serving on a local selective service board. And here they have been demeaned in the Senate of the United States.

Maybe a good argument can be made for changing the whole Selective Service System, but it ought to rise above the level of indicting, impeaching, and attacking the selective service boards of this country.

Mr. President, this amendment, I think, goes somewhat further than its sponsors anticipated. The charge was made that the door was slammed on a lawyer when he sought to argue before the selective service board, and it undoubtedly was, because lawyers are not permitted to accompany registrants. But they are allowed to prepare the affidavits or arguments or statements. They are allowed to prepare the case. An attorney could resort to the simple expedient of handing to the tentative inductee all this material he wanted to get before the board. Then the material the lawyer prepared would have gotten before the selective service board and would have been and could have been considered. It would have been a part of the record in the case, and would have followed all the appeals that were made.

The system has its weaknesses. I do not know of any system of administration that has ever been devised by man that does not have weaknesses. Human beings have never achieved perfection, and there is very little in the history of the human family to lead us to believe that it ever will.

Oh, yes, you can cite a case in which there has been an error. You can bring out a case where there has been injustice. There undoubtedly have been many injustices in processing and dealing with the nearly 2 million new registrants in this country every year.

But what has the Senate been discussing for days? We have been discussing the courts, questions that have been decided in the courts, and whether these decisions have resulted in injustice. Some of the advocates of this amendment said every lawyer knew that there were injustices in processing registrants. I know that there have been injustices perpetrated in every court of this land, and nobody is proposing to, in effect, abolish the courts or to change and get some other kind of system of administration of justice.

If the Congress wishes to change the Selective Service System, put it under the Federal courts and let them try all of these classifications and let the lawyers come in and give registrants all the rights there and the rights of appeal that a man has in a criminal prosecution, that is one thing. But it is another to propose something that would hobble our present system and make it impractical and incapable of operating satisfactorily. And that is what this amendment would do. It would require the draft board to permit every one of the 2 million registrants to come in and bring in an army of attorneys to testify.

Local draft board members have to make a living for their families. They are not paid anything by the Government of the United States. They could not begin to have time, if they devoted 18 hours a day to it, to hear tendentious arguments by lawyers on behalf of every registrant. As a humble member of the bar—not an outstanding member, as my brethren are, but as a humble member of the bar—who managed to make a living at the law for 12 years and tried some hundreds of cases, I know that there are tendentious and contentious lawyers. This amendment could encourage them to approach registrants in some cases, just as some chase ambulances. I predict there would soon be many specialists in trials before draft boards. The word would get out that Lawyer So-and-So is a specialist before draft boards.

If the system is to be changed, it should be changed in an orderly, regular way after thorough hearings by the committee having jurisdiction over Selective Service. I am not in favor of giving any committee a runaround, and I do not like to see the Armed Services Committee given the runaround.

Mr. LONG of Missouri. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield.

Mr. LONG of Missouri. I wish to respond after the Senator has finished, but I am concerned about the Senator's remark about giving the committee the runaround.

I believe the Senator will recall that Senate bill 3303 was referred to the Committee on the Judiciary, was referred to the Subcommittee on Administrative Practice and Procedure, public announcements were made, public hearings were held; and the Senator will recall that I visited with him at the rear door of the Senate Chamber and told him that these hearings were going on. It was not my intention in any way to go around him or his committee.

Mr. RUSSELL. There have been any number of subcommittees or other committees that have held hearings on some aspect of the Selective Service Act. This is the first time I know that one has brought forth an amendment that would strike down the system.

Mr. LONG of Missouri. The right to counsel is a legal matter, a judiciary matter; the Judiciary Committee is concerned about it.

Mr. RUSSELL. The Senator is wholly incorrect about that.

I submit a parliamentary inquiry to the Chair.

The PRESIDING OFFICER. The Senator will state it.

Mr. RUSSELL. If this matter were submitted as a bill amending the selective service law, or saying notwithstanding the provisions of the selective service law that was shaped in the Armed Services Committee, should not that bill be properly referred to the Senate Committee on Armed Services?

The PRESIDING OFFICER. After consultation with the Parliamentarian——

Mr. LONG of Missouri. Mr. President——

Mr. RUSSELL. It is unquestionably true under rule XXV.

Mr. SYMINGTON. Mr. President, may we have order so that we may hear the decision of the Presiding Officer.

The PRESIDING OFFICER. After consultation with the Parliamentarian, the Chair would assert to the Senate that such a proposal, such a bill, would be referred to the Committee on Armed Services.

Mr. RUSSELL. Of course it would. This law has been handled by the Committee on Armed Services since its inception and the draft has been renewed every 4 years.

Mr. LONG of Missouri. The bill was here and it was referred to the Committee on the Judiciary.

Mr. RUSSELL. It was improperly referred to the Committee on the Judiciary. That the Senator from Missouri introduced it, that he is a member of the Committee on the Judiciary, and that the title does not indicate it would change the Selective Service Act, but only refers to administration procedures, undoubtedly caused an error at the desk. But if the title had disclosed the real effect of the bill, there is no doubt in my mind that it would have been properly referred. Even the able employees we have in the Senate are capable of error.

Mr. LONG of Missouri. No one in the Senate has more respect than I do for the Senator from Georgia. I am concerned about his statement with respect to an attempt to give the runaround to his committee, because I discussed this matter with the Senator.

Mr. RUSSELL. The Senator mentioned it to me, as I recall, day before yesterday.

Mr. LONG of Missouri. It was before that. It was last week.

Mr. RUSSELL. As I have said, it is nothing new for other committees to have hearings on some part of the Selective Service Act. I do not charge the Senator with bad faith.

Mr. LONG of Missouri. That is what I wanted to be sure of.

Mr. RUSSELL. Indeed not. The Senator proceeded under the reference ruling of the Chair.

I do not charge the Senator with bad faith. He went out of his way to tell me he was holding hearings on a bill affecting the Committee on Armed Services.

I do not want to leave any impression that the Senator acted in bad faith, and I want to clear it up if I did.

But this bill, with the potential it has for handicapping the present Selective Service System, should be supported by more than perhaps casual complaints by lawyers who could not get before draft boards.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. RUSSELL. I yield.

Mr. LAUSCHE. Have the selective service procedures and the hearings that were had before local draft boards ever been considered as adversary proceedings, or have they been considered as the U.S. Government operating with its youth in a period of war in determining that both shall be treated justly? In other words, is it an adversary proceeding?

Mr. RUSSELL. No; it is not an adversary proceeding. It is an administrative procedure.

The system has its shortcomings. That I admit as quickly as anyone, because I have dealt with it closely day after day since the original act was enacted. But for simplicity it can hardly be exceeded.

If the registrant is not satisfied with his classification or any other step of the proceeding, all he has to do is walk into the draft board and say, "I want to appeal this." He does not have to have a lawyer. He can walk in and tell them he wants to appeal it.

Under this amendment the wealthy youth of this country, some of whom formerly could be deferred while staying in college for one degree after another until they either had accumulated a family or reached a ripe age where the Army does not want them, could have still another advantage.

The wealthy boys could hire better lawyers, and they could come in and find reasons to cause an interminable series of hearings. They could have a presentation in piecemeal of any information that they had gathered. The poor boys might not have a good lawyer. That would provide more grounds for charges that poor boys are inducted and that wealthy boys can escape service in the Armed Forces. We have had too much of that. Last year, changes in the Selective Service law permitted a young man to stay in college for a bachelor's degree but then he reverts to the group from which inductees are then being selected. I defend that position because otherwise those who have the wealth and want to stay in college indefinitely could avoid service altogether. Now, we say, "You can get your degree, but then be subject to the draft like anyone else." That feature is not directly involved here but it is indirectly involved.

It is impossible to determine just what effect this amendment would have on the entire system of Selective Service without full and adequate hearings. The Committee on Armed Services is the proper place to have those hearings. This is not a task I would welcome, but I do not shirk any responsibility that comes my way through my service in the Senate. It has not been pleasant for me to handle the other Selective Service bills. I am aware of the impact of this legislation and the criticism that follows in many of these cases, but I have felt it necessary to have Selective Service for the defense of our country and to assure that we would be able to turn back any aggressor that might attack us.

Under this amendment, the registrant would be entitled to have a lawyer at any proceeding. He would be entitled to unlimited hearings on his classification. He could say, "I am a conscientious objector." If that were overruled, he could say, "I am studying medicine." If that were overruled, he could say, "I am studying for the ministry," which would exempt him. There is hardly a limit to what a resourceful lawyer—and the more wealthy the boy is, the more resourceful the lawyer he would get—could urge as a means of avoiding or delaying induction of his client.

Not only that, but when the registrant is ordered to report for a physical examination he would be entitled, under this amendment, to take his lawyer along with him when he is physically examined, to see if any issue could be raised and to enable him to appeal to the State board and on up to the national board. The same thing would happen over and over again. When he finally got his order to report for induction he could start all over. The lawyer would have to be there when he was inducted. That is part of the procedure under this amendment. The lawyer would go down to see if he were properly inducted.

The truth is, while there are mistakes and errors, in the last analysis, the legality of an induction can be tested in the Federal courts. The Senator from Maryland properly referred to the fact that it was improper to have a man's classification changed merely because of his political views. I could not agree more strongly with any statement ever made on the floor of the Senate than I do with that statement.

But, Mr. President, in cases of that kind, a man has his recourse in the U.S. courts, the courts that those who brought this amendment here have been saying in recent days are the last word in perfection of fairness. After exhausting administrative remedies, the draftee can get in court if there is any abuse of the system. He can get in the Federal court. This amendment would drive everyone on the draft board from such service. No matter how patriotic a man is, he cannot afford to devote all of his time to sitting there listening to lawyers, and bringing in witnesses to testify as to whether a man is essential to the community. A resourceful lawyer for a wealthy man could get many witnesses.

The amendment should not be adopted on the purely emotional ground that a draft board picked on some imaginary 18-year-old.

Mr. President, there are plenty of 18-year-olds fighting—and some have been dying—in Vietnam. But they did it voluntarily. They did not go out and get a lawyer. They went down to the local enlistment office, or they presented themselves for induction. They did not cry, "Where is my lawyer?" They undertook their obligation willingly to defend their country, the country that had given them life and sustained them until they had reached their 18th year, in order that future generations might enjoy whatever opportunity they had missed.

Mr. President, the pending amendment is a destructive amendment. It offers nothing whatever of a constructive nature to improve the selective service laws.

Mr. LAUSCHE. Mr. President, will the Senator from Georgia yield?

Mr. RUSSELL. I yield.

Mr. LAUSCHE. The Senator from Georgia stated that the local board members are appointed by the Governors of the several States.

Mr. RUSSELL. That is correct.

Mr. LAUSCHE. What about the members of the State boards of appeal? By whom are they appointed or recommended?

Mr. RUSSELL. It is my recollection that they, likewise, are recommended by the Governors of the States. The National Appeals Board in Washington, D.C., is appointed by the President, as well as the Appeals Boards. The Selective Service System runs the whole gamut. It is similar to the structure of Federal courts, where there are district courts, courts of appeal, and an appeal to the Supreme Court of the United States. Let me say that, technically, the President appoints these boards but it is all done on recommendation by the Governors of

the States. I do not know of a single instance in which a member who was not recommended by the Governor of a State was appointed.

Mr. LAUSCHE. One further question. Is the Senator able to answer whether members of State appeals boards are also on a voluntary, unpaid basis?

Mr. RUSSELL. They are. They receive no compensation. I believe they do receive travel expenses.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, it may be that at one time I was in the category of the lawyer described by the distinguished Senator from Missouri [Mr. LONG], as one who works both sides of the street. I was a Government appeal agent for a local draft board during the Second World War, and I became familiar with the operation of the draft.

To be sure, there will always be complaints about draft laws until they are supplanted by a system which requires everyone to render the same service to his country under the same circumstances. But it is not fair and not in accordance with the facts to say that those who are called upon to report to the draft board for registration or consideration of their claim for exemption or for deferment are denied the right to the services of a lawyer except to the extent that the lawyer cannot come before a draft board while it is sitting and present and examine witnesses in behalf of a registrant who claims he is entitled to an exemption or deferment.

As a matter of fact, before anyone is drafted, he answers a questionnaire. In preparing his questionnaire, he can consult a lawyer and have the lawyer advise him as to the law and regulations concerning exemptions and deferments and other matters and assist him in preparing answers for the questionnaire. Besides, he can have a lawyer prepare and obtain affidavits or other evidence tending to support any claim he may wish to make concerning any matter within the jurisdiction of the draft board.

Mr. President, I must confess that I was not overworked when I was a Government appeal agent for the local draft board in Burke County, N.C., because—thank God—the overwhelming majority of North Carolina boys consider it an honor to serve in the Armed Forces of their country. They would not go along with the argument that the fate of a soldier, even though he is a draftee, who dies for his country upon the field of battle, should be likened to the fate of a man who is electrocuted for a capital crime.

As the Senator from Georgia has so well pointed out, in addition to the local draft boards, the Selective Service System provides for the establishment and functioning of State boards of appeals and ultimately for a National Board of Appeals in Washington, D.C. Those boards of appeals receive any documentary evidence prepared by an attorney, or anyone else, bearing upon the question as to whether a particular registrant should or should not be inducted into military service.

The proposed amendment would allow those who are wealthy enough to retain lawyers to have their lawyers go before a local draft board and appear in all its proceedings, including its executive sessions, where the members make the decision as to who shall be inducted of the registrants who are registered with the board.

If we are going to be fair and just, then we would have to provide attorneys for the remainder of the young men required to register with the 3,000 draft boards in this country. The registrants number approximately 2 million young men each year. The amendment does not undertake to furnish lawyers for young men unable to pay counsel fees.

It has been suggested by my good friend from Missouri that perhaps poverty program lawyers could represent the poor boys.

It is doubtful that would be just simply because many poverty program lawyers are said to be somewhat poverty-stricken when it comes to legal knowledge and legal capacity. So that course would not solve the problem which the amendment raises for those not wealthy enough to obtain adequate legal services for themselves.

Mr. LAUSCHE. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. I yield.

Mr. LAUSCHE. That is, if the situation should develop that the rich boy could hire a lawyer, and have that lawyer continue through all the proceedings that are now provided by law—and the argument is made that the poor boy was not in a position to hire a lawyer—if the thinking that seems to dominate this amendment is carried to its logical conclusion, is it not justifiable to expect that someone, at a later date, would say that the local board had to provide lawyers for everyone who came before it?

Mr. ERVIN. Absolutely, in fairness and in justice that would have to be done. The amendment puts no limitation on what evidence the lawyer could produce. While lawyers are presenting unlimited evidence before the boards, the enemy could come in and take over the country and there would then be no necessity to draft anybody. The Senator from Georgia has pointed out very effectively how the proceedings could be dragged out until the last lingering echo of Gabriel's horn trembled into ultimate silence, and until the registrant represented by the lawyer had gotten too old to perform any military service.

The amendment could bring about a situation which Bill, an old mountaineer, described as the way the Superior Court of Watauga County, N.C., functioned on one occasion. After he had served on the jury the first day of court, Bill went to the neighborhood grocery store. One of his friends said, "Well, Bill, I understand you have been up to Boone"—the county seat—"serving on the jury today. What did the court do?" Bill replied: "Nothing. The judge was sitting up there on the bench and we were sitting there in the jury box. Some of the lawyers were objecting and the others were excepting, and the costs were piling up."

Mr. LONG of Missouri. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. LONG of Missouri. The Senator is making a very strong appeal to deny these young men the right to have counsel before the board. I remember that the Senator's subcommittee, of which I am a member, has been very active in seeing to it that Federal employees had the right to have counsel before the various boards and the various agencies. I am sure the Senator wants to be consistent. I am sure the Senator does not see any difference between the right of Federal employees to have counsel before boards and agencies and the right of 18-year-old boys to have lawyers before the draft board. What is the difference?

Mr. ERVIN. The difference is about as wide as the gulf between Lazarus in Abraham's Bosom and Dives in Hell. The subcommittee's bill relating to Federal employees undertakes to provide that a Federal employee charged with conduct which might result in disciplinary action would have the right to be accompanied by a lawyer or a friend of his selection to the supervisor interrogating him in order that he might not be unjustly subjected to discharge or other disciplinary action. But neither the lawyer nor the friend of the Federal employee is to be authorized to call witnesses and present oral testimony to the supervisor. In this respect, the subcommittee bill is quite unlike the proposed amendment which would authorize the registrant's lawyer to do these things. In my opinion, that is a very wide distinction.

Mr. LONG of Missouri. I do not know how wide the distinction is, but the things the Senator mentioned do not seem very wide to me. This measure does not provide for a lawyer to prevent him from giving service. The law sets up certain exemptions. If we do not want the 18-year-old boy to avail himself of those exemptions, should not Congress take the exemptions out of the law?

Mr. ERVIN. No; this man can go to a thousand lawyers, if he wants to get them, to write documents showing he is entitled to an exemption or deferment.

Mr. LONG of Missouri. He does not want 1,000; he wants one lawyer.

Mr. ERVIN. The registrant can have one and he can have that lawyer write out anything he wants showing he should have an exemption or deferment, and then the members of the board could read it, instead of having to spend unlimited and undefined time hearing the lawyer presenting oral testimony before them.

Mr. LONG of Missouri. We do not know whether the board members would read it or not, but the lawyer for the Federal employee would have that same right.

Mr. ERVIN. Fundamentally, registrants who want an amendment of this nature are not anxious to serve our country.

If they are, they can file a questionnaire, just as my son did, at the age of 18, in the Second World War, in which he wrote his name, age, and address in his questionnaire, and then added, "When my country needs me, I am ready."

Mr. LONG of Missouri. That is just the Senator's conclusion.

Mr. ERVIN. That is a fact.

Mr. LONG of Missouri. What the Senator's son did may be a fact, but the Senator is saying that a boy is not entitled to use the exemptions and still be protected in serving his country——

Mr. ERVIN. The registrant can get lawyers and have them prepare and file with the draft board any data relative to his contentions. I have never heard of a draft board in North Carolina—there may be some in Michigan—that would not consider such data.

Mr. LONG of Missouri. The Senator says there is a great difference. To my mind there is not. The Federal employee has that right, but the Senator wants to prevent a lawyer for the 18-year-old boy from going before that board with a lawyer.

Mr. ERVIN. The difference is that the Federal employee is being interrogated by a supervisor upon an allegation charging him with misconduct which could result in his discharge or other disciplinary action. He can be accompanied to the interrogation by either a lawyer or a friend. But, unlike the pending amendment, neither the lawyer nor the friend can call witnesses and have them testify orally during the course of the interrogation. The Federal employee is merely subject to interrogation by his supervisor.

Mr. LONG of Missouri. So is the 18-year-old.

Mr. ERVIN. The Federal employee is required to come in and be subjected to cross-examination by his supervisor.

Mr. LONG of Missouri. Is not the 18-year-old boy required to come before the board?

Mr. ERVIN. Yes. If the 18-year-old is given all the procedural rights which are given to the criminal, as has been suggested by some, his service will be held in abeyance until the country is overrun and conquered by an enemy—provided there are enough boys who want to escape performing service for their country under a provision like this. I hope there are not that many.

Mr. LONG of Missouri. The Senator does not think this would create a great number of appeals and clog up the system; does he?

Mr. ERVIN. If we are going to be fair and give them the same rights that are given to a criminal, as has been suggested here, his claim would go ultimately to the Supreme Court of the United States——

Mr. LONG of Missouri. We have never said that. We just want to give them the right to counsel, the same right the Senator wants to give to Federal employees before agencies and bureaus of the Government.

Mr. ERVIN. If they were given the right to counsel, there would be no end to the proceedings.

Mr. LONG of Missouri. In what way?

Mr. ERVIN. Because the lawyer would be entitled to be there during the proceedings.

Mr. LONG of Missouri. No; the bill does not say that. This is just before the board.

Mr. ERVIN. He can keep it there forever. He can claim an exemption. He can claim exemptions like a fellow in my county did in the First World War. He filled out the questionnaire by saying, "I want an exemption." He said, "First, I claim an exemption on account of dependents." He said, "It is true that my wife has done run off with Bill Jones, but she will come back before long and I will have to support her."

He said, "That is the first exemption I claim. Then, the second exemption I claim is that I am a minister of the gospel. The third exemption I claim is that I have been in the penitentiary three or four times and on the chain gang a dozen times, and I am no fit character to be in the U.S. Army."

A registrant's lawyer could keep that up for a long, long time, until the financial resources of the registrant and his family had been exhausted.

Mr. LONG of Missouri. The lawyer could do nothing more than the boy could do for himself if he were properly trained, and the board could grant or dismiss the exemption after 10 minutes.

Mr. ERVIN. Under the proposal of the Senator from Missouri, the board could not even meet privately for the purpose of deciding the claim, without the lawyer being present.

Mr. LONG of Missouri. The Senator is reading that in the bill. It is not in there.

Mr. ERVIN. Well, let us see. Reading lines 6 and 7:

> . . . be represented by counsel in any proceeding before the local selective service board having jurisdiction over him.

It would certainly be a proceeding before the local board when the members of the board meet together to make a decision. The lawyer would be entitled to be there, and presumably argue the matter.

Mr. LONG of Missouri. I am sure the Senator must be facetious, because the Senator, as a lawyer, knows, as well as I do, that there is a public hearing. That would be before the board. Then, when the board met in private chambers to discuss it and make a decision, this amendment would not provide for a lawyer at that time.

Mr. ERVIN. Would it not be a proceeding before the local board when they met to make a decision?

Mr. LONG of Missouri. No, it would not.

Mr. ERVIN. Is that not a proceeding?

Mr. LONG of Missouri. No.

Mr. ERVIN. The lawyer would be allowed to be there.

Mr. LONG of Missouri. Does the Senator feel this could create a lot of appeals and clog the system, as suggested by the distinguished Senator from Georgia?

Mr. ERVIN. Oh, yes. The lawyer would have the right to call witnesses without number and present oral testimony without limit through them.

Mr. LONG of Missouri. And it would create a lot more hearings?

Mr. ERVIN. It would mean that many American boys who seek exemption from service to their country would be able to do this if their families had enough money to employ lawyers.

Mr. LONG of Missouri. Judge Gwiazda, who is Chairman of the Federal Appeal Board—the Supreme Court, you might say, of the draft system—made a statement on this question. I asked him:

> You would not think, would you, Judge, that the number of appeals would be greatly increased because of counsel representing the registrants, that counsel would not advise them to appeal unless they had some meritorious right?

This is the answer from as experienced a man in this field as anyone in this country:

> Judge GWIAZDA. I do not think so, frankly; because an analysis of the Korean situation on which the board took a survey, it is peculiar to note that despite all of the publicity as to the registrant's rights and, actually, inciting to block the system, that you all are conversant with, we find that there were more appeals reaching the Presidential Board during the Korean conflict than there are at the present time.

In other words, now with all this publicity about the right to appeal, and so on, there are fewer appeals than during the time of the Korean war.

Mr. ERVIN. Mr. President, I would say to the Senator from Missouri that at the time of the Korean conflict we did not have draft card burners; we did not have a multitude of students on the campuses of this country who resisted being drafted; we did not have multitudes of other citizens demonstrating to obstruct the operation of the draft and the carrying on of the war in South Vietnam.

Conditions have changed. I think these things indicate that we would have a multitude of appeals.

Mr. LONG of Missouri. But in spite of all that, there are fewer appeals than there were during the Korean conflict.

Mr. ERVIN. Well, I rejoice to learn that.

Mr. LONG of Missouri. I agree with the Senator.

Mr. ERVIN. I rejoice to learn that we can hope there are not many boys who want to employ a lawyer to assist them to avoid serving their country.

Mr. LONG of Missouri. I agree with the Senator entirely on that point.

Mrs. SMITH. Mr. President, the distinguished chairman of the Committee on Armed Services stated the argument against this proposed amendment to the pending bill so clearly that I hesitate to try to add anything to the debate.

In my opinion, however, this amendment violates orderly legislative process and simple commonsense. This is a matter on which there should be hearings. It is not a matter to be acted and voted upon on the basis of a few minutes debate.

It is a matter that comes under the jurisdiction of the Armed Services Committee. This amendment would bypass the committee. If we are to adopt this amendment then we will be setting a precedent that could lead to making the committee system of this legislative body a shambles.

I do not contend that there is never a case for justifying the offering of an amendment on a subject on which the cognizant committee has not held hearings or deliberations. Of course, there have been cases in past histories where committees have bottled up legislation

and it has become necessary to counter such blocking and stalling tactics on the part of a committee by trying to bypass the committee with the offering of an amendment on the floor.

But that is not the case in this instance. The Armed Services Committee has not been guilty of blocking such legislation—for the simple reason that no such legislation has been referred to the committee.

This is not merely a matter of committee pride. It is a matter of orderly legislating. Adopt this amendment and you pave the way to this sort of shortcut manner of subverting every cognizant committee of this legislative body. I trust the amendment will be soundly defeated.

Mr. THURMOND. Mr. President, I support the motion that will be made by the distinguished Senator from Georgia to table the pending amendment. I shall vote to table for two reasons.

The first reason is that we are now considering a very important and essential piece of legislation, which means much to the public good of this country—a safe streets and crime control bill—and I do not feel that it should be cluttered up with other matters that are not germane to it.

The second reason is that this is a matter for the Committee on Armed Services. The distinguished Senator from Missouri introduced S. 3303 on April 10, and has been holding hearings on that legislation. The title of that bill is "To Amend the Provisions of Chapter 5 of Title 5 of the United States Code, Relating to Administrative Procedures."

If that bill, S. 3303, had stated in its title that it was to amend the National Selective Service Act, I am sure it would have been referred to the Committee on Armed Services, and the hearings would not have been held in a subcommittee of the Committee on the Judiciary. That bill ought to be sent to the Committee on Armed Services.

The amendment offered by the Senator from Missouri today is identical, I believe, with the bill, S. 3303, and it, too, should be considered by the Committee on Armed Services.

Mr. President, on May 11, 1967, the Senate rejected an identical amendment, almost word for word, offered by the distinguished Senator from Oregon [Mr. MORSE], by a vote of 55 to 17. That does not mean that the Senate would necessarily reject a similar amendment today. That does not necessarily mean that the Committee on Armed Services would not consider favorably a similar amendment today. But I do feel that this is a matter that deserves great consideration. It should not be acted upon hastily. There are many people who have strong feelings both ways. There is sizable sentiment for the views expressed in the amendment of the distinguished Senator from Missouri, but there are also strong and logical views on the other side; and it seems to me that the Committee on Armed Services should have the opportunity to hold full hearings, and, after full hearings, make its recommendation to the Senate.

The Committee on Armed Services has not held such hearings on this particular bill; and I feel that, before action is taken by the Senate, the Senate should receive the benefit of the consideration, the views, and the recommendations of that committee.

No law that is passed is likely to please everybody. If the amendment of the Senator from Missouri is agreed to today, it will not please everybody. The present law does not please everyone. Under the present law, all males register at 18. All qualified males are obligated at 18½ years for a 2-year period. None are called before the 19th birthday. The Selective Service Board in the registrant's county classifies the registrant, and the registrant is notified of his classification.

Then, if he is in class IA, and objects to being in that class, he has the right to a personal appearance before the Selective Service Board in the county, within a 30-day period after such notification, and the board again reviews the classification and notifies the registrant.

If he is not pleased then, he can apply for an appointment with a Government appeals agent for advice. The Government appeals agent will appeal his case, or will assist him with it, and give him counsel and advice without charge. If he chooses to go to the State appeals board, he can do that, and he has 30 days more in which to appeal to the State appeals board. They review the case, and they notify the registrant of the result.

If the State appeals board has one or more members who dissent from the county board's recommendation, then the registrant can appeal to the National Selective Service Appeals Board. Even if the State board is unanimous in its opinion, the State director of Selective Service or the national Director of Selective Service can appeal on behalf of the registrant.

So, Mr. President, the registrant is afforded every opportunity to have his case heard through proper channels. However, there may be some points that the Committee on Armed Services has overlooked, or would wish to hear, and I would certainly keep an open mind, if the bill comes before the Committee on Armed Services. I do feel it would be a mistake for the Senate to agree to this amendment today.

Mr. President, I hope the Senate will see fit to table the amendment and let testimony on the amendment be heard by the Committee on Armed Services.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a letter written by me under date of May 21, 1968, to Lt. Gen. Lewis B. Hershey, Director of the Selective Service System, and his reply to me under date of May 22, 1968.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., May 21, 1968.

Lt. Gen. LEWIS B. HERSHEY,
Director, Selective Service System,
Washington, D.C.

DEAR GENERAL HERSHEY: During the course of your appearance before the Subcommittee on Administrative Practice and Procedure of the Senate Committee on the Judiciary, under the Chairmanship of Senator Long of Missouri, Senator Kennedy of Massachusetts raised a question concerning the relationship of the Government Appeal Agent for each of the local boards with the registrants who seek his advice concerning selective service procedures.

Due to circumstances beyond my control, I was unable to be present at this meeting. I would be very much interested in knowing the exact function which the Government Appeal Agent performs under the regulations with respect to local board registrants.

I appreciate very much your advising me on this point, and with kind regards and best wishes,

Sincerely,

STROM THURMOND.

NATIONAL HEADQUARTERS,
SELECTIVE SERVICE SYSTEM,
Washington, D.C., May 22, 1968.

Hon. STROM THURMOND,
U.S. Senate.

DEAR SENATOR THURMOND: I have your letter of May 21, 1968, concerning the functions of the Government Appeal Agent.

No attorney client relationship exists between the Government Appeal Agent and a registrant nor between the Government Appeal Agent and the local board.

The Government Appeal Agent is an unpaid government official whose duties are to assure, in cases coming to his attention, that procedures are followed, and that classifications reflect the national interest. To discharge these responsibilities he may recommend that the local board reopen and reconsider a classification, or he can appeal a classification made by his local board any time before the induction order is issued. (The registrant, his dependent, or employer may appeal only during the 30 day period following classification. The State Director or Director of Selective Service may appeal at any time.)

With respect to his authority to appeal, the Government Appeal Agent is the balance wheel for the community, as is the State Director for the State and the National Director for the System nationally. The lessons of history demonstrate conclusively that the success of a Selective Service System depends on the degree of its decentralization and the representation in the community of all of the elements necessary to insure local operational autonomy.

The role of these patriotic unpaid officials is the same now as it has been ever since 1940. In these nearly three decades past, many thousands of citizens, mostly attorneys, have served as Government Appeal Agents. The American Bar Association and State and local Bar Associations have performed a vital service to the Nation over the years by cooperating with the Selective Service System in keeping these offices filled with competent and dedicated men.

I trust this information will be of assistance to you.

Sincerely yours,

LEWIS B. HERSHEY,
Director.

Mr. STENNIS. Mr. President, I shall not detain the Senate for more than a few moments. This subject has been fully covered. It was covered last year when the Senate debated and voted on almost the identical provision.

I think that if the pending amendment should be agreed to and should become law, it would have two effects on many of the boys who are called.

Members of draft boards serve without pay. They are selected, or at least are nominated, by the Governors of their respective States. If a situation arose in which every registrant had the right to appear with an attorney on every point,

some registrants would soon be having almost continuous sessions before the board. There would then be wholesale resignations from the boards. This amendment could not lead to anything else. The board could not afford to go through continuous semijudicial proceedings in a great many cases, and it would not be possible to replace these men with other men of the same type.

Furthermore, we would witness the hiring of the most influential lawyers to represent registrants. Those lawyers would be men who not only were skilled in their profession but would also possess tremendous influence, sometimes crushing influence, in their cities or communities.

There would be a tug of war between both sides, and tremendous pressure would be applied on the board members. The board members should not be required to contend with such a procedure. They do not have the time. Their really high purposes and motives in serving gratuitously from a sense of duty would be crushed.

I think that to agree to the pending amendment and enact this provision would have a very bad influence on the Selective Service System.

I do not attack the good intentions of anyone. I know that the Senator from Missouri [Mr. LONG] has good intentions. However, it is shocking to me to think that our system would permit the adoption of such an important amendment on such a tender subject without our having the benefit of full hearings. Some hearings were held, but who knows who the witnesses were?

We have no record of hearings before us on this amendment? I do not know what witnesses testified. I do not know what questions they were asked. We do not know what the real substance of the testimony was, and we do not know the qualifications of the witnesses who may have testified.

No hearing record has been presented to the Senate, that I know of. There has been no sense of the committee presented to the Senate by those who held hearings.

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

Mr. STENNIS. I yield.

Mr. RUSSELL. Mr. President, one thing that disturbs me is that in proceedings before Federal agencies somebody is present to represent the Government. But under this amendment nobody would represent the Government. As the Senator well says, men of wealth would employ lawyers of great standing and influence in their communities. However, the Government would have no counsel at all.

Mr. STENNIS. The Senator from Georgia has well stated the matter. There could be a debacle. There could be unjustifiable delays and great difficulties in securing competent and impartial board members.

Mr. President, I submit, for my part, to the judgment of the Senate.

Mr. President, I yield the floor.

Mr. LAUSCHE. Mr. President, I have listened to the arguments made on this subject. I cannot dismiss from my mind my deep impression that the hearings that have been under discussion would not be adverse in nature. The parties to the hearings could be said to be in conflict. The U.S. Government is calling upon youth to serve the Nation in a period of war. The young men appearing before the boards are a part of that government. They are one and the same thing. Each is intent upon preserving the life of the Nation.

In an examination of the structure of these proceedings, it is thoroughly apparent that never has it been considered that there is a conflict in judgment and purpose between the Government of the United States and the young man who appears before the draft board in response to the notice that he has reached the age at which he must give service to his country.

The bill before the Senate, to which the amendment has been offered, deals with crime. Statements have been made repeatedly on the floor of the Senate that the bill is primarily intended to reach the criminal. I find it difficult to understand the justification of attaching to the bill an amendment that deals not with crime but with the necessity of young men to serve their Nation.

We have discussed Supreme Court decisions which deal with the right of an individual to counsel. I again read the Sixth Amendment to the Constitution; as it applies to the bill that has been under discussion for the last 3 or 4 weeks:

> In all criminal prosecutions, the accused shall enjoy the right to have the assistance of counsel for his defense.

The bill deals with the constitutional right of a man charged with crime to have counsel. This is an adversary proceeding. In that instance, of course, the Supreme Court has said that for the purpose of defending himself, an individual charged with crime shall be provided with the counsel at the Government's expense. Now, by a tenuous process of reasoning, it is proposed to attach to a bill dealing with crime, an amendment to provide for the supposed right of a registrant for the military service to have counsel to defend him. Defend him against what? The Government of the United States says to him, "Young man, we are at war. Our Nation must be preserved. Under the law, you are required to serve."

He, however, says "I want a lawyer"—a lawyer, I suppose, to stop him from responding to the call of the Government.

Mr. President, God help the United States if we reach the stage where the calling of youth for military service will be construed to be an adversary proceeding, falling into the category of a charge by the Government of criminal conduct on the part of the young man to be called.

I served in World War I. I have no qualms about my service. I have only one deep feeling at this time, and that is the helpless state in which our Government finds itself through the widespread propagation of the principle that one does not have to serve his Nation. I cannot feel other than distressed when I read in the newspapers the articles about card-burning draftees and about the formation of organizations which seek to induce draftees not to respond.

Today, somewhere in Maryland, four men are on trial, charged with inducing young men of the United States not to answer the call of the Government, but to burn their draft cards and stand by. That is a sorry state of affairs.

I subscribe to the statements of the Senator from Georgia [Mr. RUSSELL] and other Senators that if there is a weakness in the draft law or in the Selective Service System, that weakness should be remedied by a compliance with the prescribed procedures of Congress. If prospective draftees are to be allowed to have lawyers—those who are reached—and if there are to be procedures for lawyers to present the cause of the draftees, let the procedures be set out in a bill that will be fully considered by the proper committee of the Senate.

I would go one step further. If a lawyer is essential for a draftee, he should be essential for all draftees, not only for the rich, but also for the poor. If the poor are to have lawyers and do not have the funds with which to hire them, the Government should provide the lawyers for the draftees to argue that they should not serve their government.

That last statement sounds absurd. But if it sounds absurd, the absurdity is a consequence of the absurdity of the proposal made in the bill. It is not my ridiculousness; it is not my absurdity. It is the absurdity of an entity of the U.S. Government, an integral part of that Government, and youth, not in conflict with each other, not standing in an adversary position, but both wanting to reach an objective that will help the country.

The selective service boards all over the Nation, none of them paid, are appointed solely to serve the Nation and to make certain that no partiality or prejudice dominates the selection of the draftees. They are not judges. They are not lawyers. They are not paid. They render their services gratuitously, and the structure has been adopted to indicate a nonadversary aspect of the whole operation.

I concur in the arguments that if the right to hire lawyers before local draft boards is stimulated, the members of the boards will quit. They are nonlawyers. Lawyers arguing for the purposes of procrastination will drive the members from the board.

Mr. President, this matter is of far graver consequence than is generally recognized by us here today. It goes to the very structure of our Government.

Memorial Day will be with us shortly. In Granville, Ohio, about a decade and a half ago, a professor of history at Denison University walked through a cemetery. There he beheld weather-beaten tombstones, some ornamented with pictures of the bodies that lay within the ground beneath the tombstones. On others were simple American flags indicating that the ones lying in the lonely cells had served their country.

That historian of Denison University wrote a piece about it. He said:

> As I walked through the cemetery and stopped at the grave of X, I felt that I heard a voice speaking to me, saying: "Do not accept the argument that patriotism is old-

fashioned. I was young. I did not want to serve in war. My country called me and I responded. Reject the argument that patriotism is old-fashioned."

I believe that those views expressed by that man are applicable today generally throughout the Nation.

This amendment should not be adopted. I recognize the sincerity of the purposes of the Senator from Missouri and the Senator from Michigan. They want to reach the goal of justice. But I respectfully say to them that justice will not be attained through the adoption of this amendment.

I will support the motion to table the amendment, when the motion is made.

Mr. HART. Mr. President, I am satisfied that the subject matter has been thoroughly debated, and I am grateful to the Senator from Georgia for being as patient as he has.

I rise only in the event that in the discussion earlier I left the impression that I lacked respect for the patriotism or the sincerity of the many men in this country who serve on draft boards. Indeed, it may be that as I read the letter describing the events in that one draft board, that impression was created. I want very clearly to correct that impression, if I did create it.

Patriotism and wisdom are different things. We would all of us be wise and patriotic, and we hope that the patriotic are wise.

Mr. LONG of Missouri. Mr. President, I wish to join in what the Senator from Michigan has just said. I want it clearly understood that I have great respect for members of our draft boards. They serve in a very difficult position. They render service without pay and perform an outstanding service. It is a job in which many citizens of the community would not want to serve. They do a fine and a patriotic job.

In my judgment, the amendment in no way reflects on them. If anything, it would make their task easier. The draft board has its lawyer, and the registrant could have his lawyer. I do not think it would do any harm to the Selective Service System. I would not want to do that. Those of us who favor this proposal are interested only in seeing that the rights of young men are protected. I do not think it would create the great problems that has been suggested.

This matter has been before Congress for a year or more. The Senator from Georgia has suggested that he felt it was the prerogative of the Committee on Armed Services to hold hearings. Certainly my committee and those who serve on it have no thought of running around that committee's jurisdiction.

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

Mr. LONG of Missouri. I yield.

Mr. RUSSELL. I used an unfortunate term. I think the jurisdiction of the Committee on Armed Services was short-circuited, but I did not attribute it to the Senator from Missouri.

Mr. LONG of Missouri. I am sure of that. According to the RECORD of May 11, 1967, the Senator from Georgia commented about the Committee on the Judiciary being interested in handling the bill providing counsel, and rewriting the Administrative Procedure Act. Although we considered the problem, we did not come out with recommendations at that time.

Be that as it may, we know this matter was considered by the Senate a year ago, and still no hearings have been held by the Committee on Armed Services.

I wish to inquire of the Senator from Georgia if he could tell us about the possibility of hearings being held before his committee on this problem.

Mr. RUSSELL. I say frankly to the Senator from Missouri that I have no intentions of having any hearings in this area this year unless the majority of the committee decides to have hearings. That is partly predicated on the fact that the House Committee on Armed Services has already announced that they would not have hearings this year, and I do not think it would serve any useful purpose for us to have hearings.

The selective service law was considered in 1967, about a year ago, and this same issue was presented. Members of the Senate are interested in many subjects covered by the Selective Service Act. There have been a number of requests for hearings.

I am not going to plant my feet in concrete and say we are not going to have hearings, when several bills are presently pending.

I will say categorically that if we adjourn in August it will not be possible for the Committee on Armed Services to add this tremendously important matter to the agenda because, in my opinion, providing counsel could lead to a rewriting of the Selective Service Act. I would be opposed to having hearings on it this year. I do not know what the future might present.

Mr. LONG of Missouri. I recognize that problem. What is the Senator's thought about hearings early in the 1969 session?

Mr. RUSSELL. As the Senator knows, the first bill we have to consider is the authorization bill for the procurement of hardware for the Armed Forces of the United States. That is not a small matter. This year it involves an authorization for spending $22 billion principally for tanks, missiles, ships, and aircraft to arm our several services. We would have to complete that bill before I could consider hearing anything else because we cannot approve appropriations for the Department of Defense until after the authorization bill is passed.

I regret that I cannot pledge the Senator any hearings. If there is any strong desire within the committee for committee hearings, I will, of course, have hearings. But as of today, I could not make a commitment to the Senator from Missouri that I would have hearings on this problem.

Mr. LONG of Missouri. I would not expect a firm commitment today, but I am trying to determine the possibility of hearings after the authorization bill.

Mr. RUSSELL. It is difficult to foresee what the possibility would be. Nobody knows what the situation will be. If we ever get rid of the tragic situation in Vietnam, I do not think it will make as much difference whether we have hearings or not, because the draft calls would be so small they would not have so strong an impact on our people.

There are so many imponderables that I hesitate to make a commitment.

Mr. LONG of Missouri. Since there is some question about it—apparently the Committee on Armed Services will not have sufficient time to hear it—it seems more important than ever to me that this committee should have hearings this year on matters as vital as this.

Mr. RUSSELL. The Senator's committee apparently limited hearings considerably, because it must not have pursued the effect of the amendment on the operations of the Selective Service System. It just bit off one edge without tasting the whole dish, whether it be bitter or sweet.

This amendment would have a much greater impact on the Selective Service System than the able Senator from Missouri recognizes.

It would create a situation, in my judgment, that would require either the complete abandonment of the Selective Service System or the complete revision of the Selective Service Act. In my judgment, the eventual effect of such a change could be to confer jurisdiction on the U.S. district courts to hear classification matters, and to let the tentative draftee bring his petition into court, the same as any other litigant, to establish that he is entitled to a certain classification.

But so many angles are involved that I hesitate to make any commitment. I know how interested and sincere the Senator is in pressing this matter.

As I say, if we can ever bring this war to a conclusion this issue would seem less significant because the draft calls would be much lower.

Mr. LONG of Missouri. In the meantime, it is important to these boys now.

Mr. RUSSELL. Yes, it is important, but I doubt very much if 5 percent of them are strongly interested in getting a lawyer to pursue their classification. Most of them know their classifications. In some cases, an employer might have a man he thinks is vital to his community that he wants to keep from being drafted, and he might want to get a lawyer to try to have him classified as something other than 1A. But under the situation as it exists, and considering the position the House of Representatives has taken on this matter, I am not in a position to make a definite commitment. I want to be honest and frank. It would be easy to say that we will have some kind of hearings to disarm the Senator, but I do not do business that way.

Mr. LONG of Missouri. The Senator said 5 percent. I think the figures would be less. I do not think it would be more than 1 percent.

I am ready to vote.

Mr. KENNEDY of Massachusetts. Mr. President, for more than 2 years now we have heard endless criticism indicating wide dissatisfaction with the structures, operation, and procedures of the Selective Service System.

I personally have been one of those who consider the existing law and its implementation blatantly unfair and

anachronistic. A year ago, Congress had before it a unique opportunity to rectify this situation.

It chose not to, and in so doing, rejected the findings and recommendations by the President's National Advisory Council on Selective Service, commonly referred to as the Marshall Commission, by two Senate committees and subcommittees, and by an enlightened Senate which passed a constructive draft bill.

Instead of reforms, modernization, and necessary improvement, the 1967 House-drafted law enacted by Congress was filled with punitive and restrictive measures as well as increased arbitrariness.

Where many of us, including a vast majority of Americans directly affected by the draft, had expected a new law reflecting equity, certainty, and flexibility, we confronted a harsh, piecemeal, regressive one.

As a response to the numerous defects of the 1967 amendments, I introduced this February a bill, S. 3052, directed toward comprehensively restructuring the Selective Service System. This 18-point bill was aimed at replacing uncertainty, unfairness, and discrimination under a patchwork law, with certitude, equity, predictability, and uniformity.

I called for a fair and random system of selecting persons for induction into military service, for the equal application of deferment policies, the prohibition of using the draft as a punitive measure, the repeal of the 1967 amendment denying judicial review of draft classifications, and the reorganization of the Selective Service System along the lines proposed by the Marshall Commission.

I have been extremely gratified by the favorable response received on this proposed bill from the business, academic, and religious communities.

It is their feeling—and I concur—that the enactment of this legislation would go a long way toward rectifying the inequities and injustices in the draft system.

For the past 2 months I have been exploring the possibility of conducting hearings on this bill. I have approached several colleagues advocating that we reopen this issue. These efforts have not produced the results which I and the vast majority of the American people would like to see—much needed and long overdue draft reform.

Therefore, Mr. President, I am most grateful for the opportunity to raise once again today one issue among the many gross injustices found throughout the draft system—the denial of the right of the registrant to be represented by legal counsel before local selective service boards.

The absence of counsel from draft board proceedings epitomizes legal inequities pervading draft administration.

There is perhaps no legal principle so venerated under our laws than a person's right to legal counsel. The sound of the Gideon decision incorporating the right to legal counsel as guaranteed under the Bill of Rights to citizens of all States has fallen on deaf ears in our system of administering selective service laws. The extension of legal counsel to the poor, illiterate, and ignorant under OEO's neighborhood legal services represents a significant extension of our legal system to those who have been denied access to it.

Our entire history, tradition, and regard for civil liberties has harbored the concept that every man is entitled to be heard—and heard by counsel.

Is not a certain hypocrisy involved in a system that will take delicate concern that counsel is extended to all segments and groups, and yet leaves unprotected the nearly 2 million young men each year registering before local draft boards? Are there not certain injustices prevalent in a system that will draft 45,000 men this month—many of whom may be called upon to give their life for their country—but will not permit them to adequately present their case before a local draft board?

Nowhere are the defects in the implementation of our draft laws more glaring than in the present interpretation of these laws.

The 1967 amendments built into the draft law two highly controversial and repressive measures.

First, they eliminated judicial review of draft classification and processing action, except where the registrant is a defendant in criminal action.

This law has the practical effect of insulating the decisions of the Selective Service System from the jurisdictional scope of Federal court review.

It means that review of administrative decisions can come only as a result of a criminal proceeding.

In other words, the administrative process permits possible redress of grievances only where the registrant has been charged with a criminal violation of the draft law. In blocking the civil appellate channels, the amendment has the result of requiring the registrant to break the draft law in order to vindicate what he believes to be his rights.

I cannot conceive of a more absurd system of administrative procedure. Surely some inspirational truth must have guided Daniel Moynihan to write:

> If the selective service system did not exist, it would be impossible to invent it.

Second, the 1967 amendments further closed the channels of redress of grievance by eliminating the then existing requirement for a hearing by the Department of Justice whenever an appeal is filed against a local board's denial of conscientious objection status.

This provision terminated the procedure, in effect since 1940, whereby conscientious objection appeals are referred to the Department of Justice for FBI screening and investigation, or hearing by a volunteer lawyer hearing officer, and a written recommendation by the Department to the Selective Service Appeal Board.

The intended purpose of eliminating this procedural step was a reduction in prosecuting conscientious objection appeals.

The result has had severe consequences to our entire system of justice and equity under law.

In effect, each appeal board has been given authority and discretion to set its own rules, without the guidance or consistency or expertise of the Justice Department procedures.

Furthermore, the greatest inequity presently manifested in the selective service operation stems from General Hershey's October 26, 1967, directive to appeal agents of local boards.

Under this directive, the local or volunteer appeal agent assigned to each board is required to report to the local board any information which might lead to a prosecution of any registrant under the selective service law.

Clearly, no more blatant hypocrisy and conflict of interests can be found anywhere in our legal system. On the one hand, a registrant is informed on his draft registration certificate that the Government appeal agent is available at each board "who is ready and willing to offer any legal counsel on selective service matters."

Yet, on the other hand, this same appeal agent, who is "legally trained" wherever possible, is required to divulge information given to him in confidence by the registrant.

These contrary—if not totally incompatible—regulations require a Government appeal agent to protect both the interests of the Government and the rights of an individual—a de facto case of conflict of interests.

If by "legal counsel," General Hershey means a lawyer-client relationship, then the divulgence of information given under the pretense of legal assistance is clearly unethical.

The American Bar Association's Committee on Professional Ethics has handed down an informal opinion on this very matter:

> If law and regulations are construed to create an attorney-client relationship between agent and registrant, or if in fact such a relationship is created in a given case, it would be *unethical* for a lawyer not to preserve the confidences of the client, and it would be improper for him to act as an informer to the board of information disclosed by the registrant to his lawyer in confidence as an attorney.

If Mr. Hershey has some other meaning by "legal counsel"—one not compatible with our common legal vernacular—then I think each registrant should be informed as to what this phrase means.

This entire semantic difference inclusive of legal and administrative laws, regulations, and directives substantiates the registrant's need for legal counsel.

I hope the adoption of this amendment will serve as a catalyst in reopening the whole draft issue. Not only do we find that the system is fragmented, disjointed, and uncoordinated, but in its operations common standards of justice and fairness are further diluted by highly questionable administrative practices and procedures.

I would expect the inclusion of the right to counsel before local draft boards to be the first of many changes necessary to infuse uniformity, equity, and reason into the operations of our Selective Service System.

Mr. RUSSELL. Mr. President, I move to lay the amendment on the table, and I ask for the yeas and nays.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Georgia to table the amendment of the Senator from Missouri.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Oregon [Mr. MORSE]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Idaho [Mr. CHURCH], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from Arizona [Mr. HAYDEN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New York [Mr. KENNEDY], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Wyoming [Mr. MCGEE], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Minnesota [Mr. MONDALE], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from West Virginia [Mr. RANDOLPH], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. GRUENING], the Senator from New York [Mr. KENNEDY], and the Senator from Minnesota [Mr. MCCARTHY] would each vote "nay."

On this vote, the Senator from South Carolina [Mr. HOLLINGS] is paired with the Senator from Alaska [Mr. BARTLETT], If present and voting, the Senator from South Carolina would vote "yea," and the Senator from Alaska would vote "nay."

On this vote, the Senator from West Virginia [Mr. RANDOLPH] is paired with the Senator from Minnesota [Mr. MONDALE]. If present and voting, the Senator from West Virginia would vote "yea," and the Senator from Minnesota would vote "nay."

Mr. DIRKSEN. I announce that the Senator from New York [Mr. JAVITS] is absent on official business.

The Senator from California [Mr. KUCHEL] is necessarily absent.

On this vote, the Senator from New York [Mr. JAVITS] is paired with the Senator from California [Mr. KUCHEL]. If present and voting, the Senator from New York would vote "nay," and the Senator from California would vote "yea."

The result was announced—yeas 63, nays 18, as follows:

[No. 148 Leg.]

YEAS—63

Aiken	Byrd, Va.	Curtis
Allott	Byrd, W. Va.	Dirksen
Anderson	Cannon	Dominick
Bennett	Carlson	Eastland
Bible	Clark	Ellender
Boggs	Cooper	Ervin
Brewster	Cotton	Fannin
Gore	McIntyre	Russell
Griffin	Metcalf	Scott
Hansen	Miller	Smith
Hickenlooper	Monroney	Sparkman
Hill	Morton	Spong
Holland	Mundt	Stennis
Hruska	Murphy	Symington
Inouye	Muskie	Talmadge
Jackson	Pastore	Thurmond
Jordan, N.C.	Pearson	Tower
Jordan, Idaho	Pell	Tydings
Lausche	Percy	Williams, N.J.
Long, La.	Prouty	Williams, Del.
McClellan	Proxmire	Young, N. Dak.

NAYS—18

Baker	Fong	Magnuson
Bayh	Hart	Moss
Brooke	Hartke	Nelson
Burdick	Hatfield	Ribicoff
Case	Kennedy, Mass.	Yarborough
Dodd	Long, Mo.	Young, Ohio

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for.

NOT VOTING—18

Bartlett	Hollings	McGovern
Church	Javits	Mondale
Fulbright	Kennedy, N.Y.	Montoya
Gruening	Kuchel	Morse
Harris	McCarthy	Randolph
Hayden	McGee	Smathers

So Mr. RUSSELL's motion to lay on the table the amendment of the Senator from Missouri [Mr. LONG] was agreed to.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that on May 21, 1968, the President had approved and signed the following acts:

S. 2256. An act for the relief of Dr. Margarita Lorigados;

S. 2301. An act for the relief of Dr. Francisco Guillermo Gomez-Inguanzo;

S. 2381. An act for the relief of Dr. Jesus Adalberto Quevedo-Avila;

S. 2403. An act for the relief of Dr. Teobaldo Cuervo-Castillo;

S. 2404. An act for the relief of Dr. Heriberto Jose Hernandez-Suarez; and

S. 2489. An act for the relief of Dr. Jesus Jose Eduardo Garcia.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

ADMINISTRATION EFFORTS TO DEFEAT CONFERENCE REPORT ON H.R. 15414

Mr. WILLIAMS of Delaware. Mr. President, yesterday I discussed the manner in which the Johnson administration is deliberately trying to defeat the conference report on H.R. 15414.

Today I call attention to a specific case of the most arrogant backstage lobbying by a Government agency that I have noted in the past 20 years.

The Secretary of Health, Education, and Welfare has set up a special task force of five employees in the Comptroller's Office under the jurisdiction of Mr. James F. Kelly, Comptroller, and Mr. John P. Leonard, Jr., his executive assistant.

For the past week this task force has been assigned the sole duty of calling Members of Congress, the presidents of universities, superintendents of schools, managers of hospitals and nursing homes, and those interested in other similar types of projects, telling them that their projects will be adversely affected by the proposed reduction. Around 700 telephone calls scattered throughout the 50 States have been made by this special task force.

The Members of Congress and the other individuals back in the States are being told that the reason for the call is that they had just received orders from the President instructing all agencies not to authorize the spending of any money on their project for fiscal 1969 until Congress was able to work out what it is going to do about the combined tax increase and spending reduction.

They are being told that if the $6 billion reduction were retained it would be necessary for the Federal Government to renege on its commitment for the specific project in which they are interested.

They are also being told that pending the settlement of the dispute between the executive and legislative branches over the amount of spending cuts HEW would not be authorizing the release of any bids on any projects for fiscal 1969. To Members of Congress they volunteered the additional thought that their constituents were going to be greatly disappointed if this project were canceled.

Mr. President, I am not blaming the five men operating this task force for this indefensible act of backstage lobbying; they are acting under orders from the Secretary of Health, Education, and Welfare, Wilbur J. Cohen, and it is reasonable to assume that Mr. Cohen is acting under orders from the White House.

This is an indefensible situation where the administration is trying to defeat a bill to which for 15 months it has been giving lip-service support.

I need not remind the Senate or the administration that the American dollar has recently survived two major crises, and if the Johnson administration persists in its present method of backstage lobbying to defeat this bill it may very well precipitate a third crisis of the American dollar. President Johnson and his administration should be ready to assume the full responsibility for the chaotic situation which they are inviting.

Once again I point out that the approval of the $6 billion mandatory spending reduction along with the tax increase will still leave the Johnson administration $3¼ million more to spend on the domestic programs than was spent on the same programs during the current fiscal year.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. MANSFIELD. Mr. President, it is news to me that a "task force" is campaigning, through telephonic communication and other means, to spread to Members of Congress and other citizens the possibility that projects in various

districts or States would not be forthcoming if the tax increase bill passed by the Senate and agreed to in conference is not defeated.

To the best of my knowledge, the administration has never threatened, nor used coercion of any nature in an effort to bring about acceptance of a bill which, if enacted, will represent something less than that passed by the Senate, or agreed to in conference.

I think I can say that the administration is clearly not trying to defeat the bill agreed to in conference, but rather that the President is hopeful that Congress, in its wisdom—and particularly in this instance the House of Representatives—will face up to its responsibility, as the Senate already has, and that a tax bill will be forthcoming.

The President faces very little in the way of choice. He needs a tax bill. He needs it if the underpinning which maintains the dollar is not to be weakened further. He needs it because at the present time people are paying 7 and 8 percent on mortgage money, and, if something is not done, will very soon be paying 10 percent. He needs it because we have the highest rate of inflation that we have had in a number of years, averaging, as of this month, about 4 percent a year. He needs it because the Nation faces a possible $23 billion deficit this year, and if nothing is done, a deficit of $28 billion or more next year. We just cannot operate on that basis.

I think the conferees have done a good job. The measure calls for a $10 billion reduction under the budget estimates that the administration presented to Congress last January; it calls for a $6 billion reduction in expenditures; and it calls for a 10-percent surcharge on income taxes paid by those earning $5,000 a year or more.

The President, of course, has made his position clear. He would like to have a measure providing a $4 billion reduction in expenditures. What he will do with a requirement for a $6 billion reduction in expenditures I do not know. But I can say, I think unequivocally, that the President feels strongly that it is up to Congress to face up to that responsibility. And if Congress will send him a tax bill, even the one which was agreed to in conference, I am absolutely certain that he will give the proposal which the conferees have agreed to every possible consideration.

I am happy to note that, to the best of my knowledge, no threats have been used. I am sorry to note the allegation made by the distinguished Senator from Delaware, because I must admit that it is news to me.

Mr. WILLIAMS of Delaware. I thank the Senator, and I appreciate his statement. I wish to say that I, too, questioned this information when it was first called to my attention. I checked with various individuals who had received the calls, and then, not being fully satisfied, I checked with the gentleman I named here who is in charge of this telephone company, and it was confirmed. So I am not stating an allegation loosely. I checked it and am stating it as a fact. One of them said there was a minimum of 500 calls and maybe 700, and the other said around 700 calls and that they are operating with five of them making these calls. If there is any denial of it I will ask that the member of this team that confirmed it to me report to a congressional committee.

I want to make it clear—my informant was not from this team, but it was fully confirmed. They did not deny it, and it can be checked by anybody who wants to check it.

I think it is indefensible that they would be singling out particular projects in the State of Montana, the State of Delaware, and any of the other 48 States—and my information is that these calls are going all over the country—and, for example, telling the presidents of the universities, "Your research grants, your approval for a construction grant under Hill-Burton, or other similar projects in which you are interested will be vitally affected if this measure goes through."

There is no reason for it in my book, and I think it should be stopped immediately. As I have stated, I do not criticize the five men. They said they are doing it under orders of the Secretary, and I am sure they are. But, on the other hand, I assume—and I have said I assume—that the Secretary is operating under directions or with the approval of the President. But if he is not, then let the President put a stop to this backdoor lobbying which is going on by the executive agencies now, because I think it will take all of us in the executive branch and in Congress, on the Democratic side of the aisle and on the Republican side of the aisle, working together, if we are to solve this financial problem which is confronting our country, one which, in my opinion and I am sure in the opinion of the majority leader, must be solved if we are to discharge our responsibilities.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. MANSFIELD. Mr. President, if this practice is in fact going on, I would join with the Senator from Delaware, and request—and if I could, I would demand—that the practice be stopped, because such a practice is certainly no way to achieve the objective which the President and Congress both desire.

I am certain, in my own mind, that this is not being done under the orders of the President of the United States. I do agree with the Senator, however, that this is a matter which we cannot delay action upon much longer. The economic situation now confronting this country is a grave one indeed, and the longer we delay action, and the further we delay facing up to our responsibilities, the more it is going to cost this country, in the long run; and it will cost us a great deal more than just dollars and cents.

Mr. WILLIAMS of Delaware. I agree completely with the Senator from Montana.

Mr. MUNDT. Mr. President, will the Senator from Delaware yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. MUNDT. I know that what the Senator from Delaware is saying is correct, because in the last week or so, I have twice been called by people in communities back home who have been on the receiving end of this propaganda from the White House. I do not know, the majority leader does not know, and the Senator from Delaware does not know whether this is being done under direct orders from President Johnson, but we all know that he could stop it before 5 o'clock this afternoon by an order to cease and desist.

Mr. MANSFIELD. I think I can say with assurance it is not being done on orders.

Mr. WILLIAMS of Delaware. I accept that; but I think, in line with what the Senator from South Dakota has said, the President can stop it. These five men were operating under the orders of the Secretary.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. GRIFFIN. Aside from the fact that such a thing is very unwise and very inappropriate, can the Senator advise me whether or not it is not also illegal for the executive branch to expend unappropriated funds for lobbying?

Mr. WILLIAMS of Delaware. I think it is. I shall check that with the Comptroller General. In addition to that, who is going to pay for these 700 telephone calls to the various States? As a Senator, I resent very much such a procedure having been undertaken by the executive branch. If the administration is not trying to defeat this conference report, then it has a poor way of showing its support.

Mr. THURMOND. Mr. President, I commend the distinguished Senator from Delaware for the information he has brought to the Senate. I hope that this information will get to the President, if he does not already know it, and that he will take some action.

CONSTRUCTION OF PLYWOOD HOUSES IN WASHINGTON PARKS BY MEMBERS OF POOR PEOPLE'S CAMPAIGN

Mr. THURMOND. Mr. President, a grave mistake has been made in permitting the Poor People's Campaign to build a shantytown in West Potomac Park near the heart of the Nation's Capital.

Furthermore, there is absolutely no doubt that this shantytown will be as difficult to remove as the Berlin wall; for, once it is in place, it will not easily come down.

This fact is amply demonstrated by an article on the front page of the Wednesday, May 15, 1968, issue of the Washington Post, in which a top official of the Southern Christian Leadership Conference stated:

> We may be here for 2 or 3 years.

This official, the Reverend James Bevel, was joined in his remarks by the Reverend Bernard Lafayette, Jr., a national coordinator of the Poor People's Campaign, who added:

> The permit may run out, but we will not be run out. We got our permission to stay here from the American Indians.

Mr. President, will this administration have more courage to remove the shantytown than it did the Berlin wall? The answer is a plain and simple "No." These people came to Washington to stay, and they will stay until their demands are met—unless firm action is exercised.

We have heard much about the right to petition one's government; but the purpose of this group is not to petition the Government. The leaders of the Poor People's Campaign have already been received by the President's Cabinet, congressional committees and large numbers of the Congress. If their purpose was to petition the Government, this has been accomplished. On the contrary, these people are here to coerce and intimidate the Government. This is to be accomplished by methods which will result in the disruption of the city: blocking traffic, blocking bridges, preventing Congressmen and Senators from going to their offices.

Their leaders have said that such tactics would be used as a last resort if other methods do not persuade Congress to acquiesce to their demands. In other words, they threaten, "Do what we say or we will turn the city upside down and right side out." If this is not intimidation, I do not know what is.

Some involved in the march have indicated that even these methods are too "moderate," that efforts will be made to instigate violence—including looting and burning.

Mr. President, they are not talking about the right of petition. They are talking about coming to Washington to stay until their "demands" are met. This is not petition. This is intimidation. This is coercion.

In allowing this group a carte blanche approval of their demands, this Government has in effect created circumstances which serve to deny other groups their legitimate right to petition the Government, to conduct marches, and to use the public parks for rallies and other purposes which have been traditional down through the years.

This situation is demonstrated by the recently publicized refusal of the National Park Service of the Department of the Interior to approve rally and march permits for the use of public grounds in Washington by the Baptist Continental Congress of the Crusade of the Americas.

This group, which is affiliated with the Southern Baptist Convention and includes congregations from throughout this country and Canada, asked to use the Sylvan Theater near the Washington Monument for a rally in October. This request for a permit has been temporarily denied because it is unknown how long the Poor People's Campaign will hold forth, although the permit to them expires in June, nearly 4 months before the Baptists wish to congregate.

This situation is placed in an even clearer perspective when it is realized that the Congress fully expects to adjourn by early September, in view of the approaching presidential election.

In other words, when the Interior Department, or more correctly, this present administration, issued the Poor People's Campaign a permit which expires in June, this arbitrary date misleads the public.

Judging from the refusal of the Interior Department to issue a permit to a group in October, it appears they are prepared to extend the period of encampment indefinitely, even months beyond the second session of the 90th Congress which the Poor People's Campaign and shantytown are supposedly here to influence. The political pressure of this group may well be aimed at the presidential election in November and could even disrupt the inauguration of our next President in January of 1969.

Mr. President, grave mistakes have been made by our National Government in handling this entire matter. The people of our Nation's Capital are terrified to walk on their own streets; homeowners even in the suburbs of neighboring States are arming themselves; the District of Columbia crimewave is accelerating at an alarming pace in the areas of murder, rape, robberies, and arson; and Washington has become not the home of the free but the home of the frightened.

The people of this Nation are alarmed as evidenced by mail to Members of Congress, election results in various States, and reaction to statements being made by various militants throughout the land.

It is not too late to bring order out of the approaching chaos, but unless law and order is maintained and the rights of all our people protected, then the freedoms and hopes of the minorities will be demolished along with those of the rest of us.

The unwise issuance of this permit has also served to discourage other citizens wishing not only to counsel with their representatives, but to visit their Nation's Capital. Cancellation of planned visits by school and other groups have been massive, and the fear of just being in the city is best demonstrated by the fact that hundreds of merchants burned out or robbed in the April riots have not reopened. Their stores remain in rubble or are boarded up and plastered with "for sale" and "for rent" signs.

The Government should be taking actions and following policies to restore an atmosphere of peace and tranquility in the Nation's Capital, not yielding to unreasonable demands which merely serve to increase tensions. It is my belief such a policy is strongly supported by those who suffered most in the April disorders—the minority groups trying to live normal lives in Washington.

This situation is illustrated by a letter received in my office May 6 from Mrs. J. D. Head, a housewife and mother from Greenville, S.C., who stated:

> Tonight I learned that our school boy safety patrol will not pay its annual visit to the Capitol in May. I have a twelve-year-old son who has awakened at 7 a.m. all year to be on his post in rain, snow, or any inclement weather. Stop and think about this for a moment—American children not allowed to visit our own Capitol for fear of their lives.

Mr. President, I think all of us should stop and think about this mother's statement.

Mr. President, an article entitled "Abernathy: We Will Raise Hell Here," published in the Charlotte Observer on May 22, 1968, emanating from the UPI in Washington reads as follows:

> ABERNATHY: WE'LL RAISE HELL HERE
>
> WASHINGTON.—Rev. Ralph D. Abernathy told the 2,500 impatient citizens of "Resurrection City, USA" Monday that the time was near when "we're going to raise hell in the daytime" to drive home their demands.
>
> He cautioned the young city toughs who have been won over to nonviolence and permitted to participate in the Poor People's march against squabbling among themselves. "The enemy is not here. It is up on Capitol Hill," he said.
>
> Referring to Washington and his frequent statement that he intends to "turn it upside down and put it rightside up again," the chairman of the Southern Christian Leadership Conference said:
>
> "We're not going to burn it (Washington) down, we're just going to "straighten it out."
>
> Abernathy assembled his top aides for day-long strategy sessions on urgent problems facing the march—chiefly finding the money and the place to house hundreds of additional protesters headed for Washington and expected to arrive before the week is over.

Mr. President, I think it is clear what these people are here for. They are not here merely to petition the Government. They are here to coerce and intimidate the Government. And the leaders of this Government might as well recognize it. The President of the United States might as well recognize it, and the Congress might as well recognize it.

Mr. President, I ask unanimous consent that the following articles be printed in the Record: The Washington Post, May 15, 1968, "Marchers Move In, Hint Long Stay"; the Baptist Courier, Baptist Press, May 2, 1968, "Baptists Denied Permit for Washington March"; and a letter to Mr. Stuart Gizzard of the Baptist Crusade of the Americans from Mr. Monte E. Fitch, National Park Service, dated April 11, 1968.

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

[From the Washington Post, May 15, 1968]

MARCHERS MOVE IN, HINT A LONG STAY

(By Willard Clopton, Jr.)

"Resurrection City USA" acquired its first settlers and a zip code yesterday, as hints were given that the poor people's shantytown by the Reflecting Pool could become a semi-permanent encampment.

"We may be here two or three years," the Rev. James Bevel, a top official of the Southern Christian Leadership Conference, said at an afternoon press briefing.

The Rev. Bernard Lafayette, Jr., national coordinator of the Poor People's Campaign, told newsmen that the protesters are prepared to ignore the June 16 expiration date for the permit that allows them to camp on West Potomac Park.

"The permit may run out, but we will not be run out," he said and added: "We got our permission to stay here from the American Indians."

About 600 camp-in participants, most of them from Mississippi, are in Washington now.

At the camp site, the banging of hammers competed with the overhead roar of jetliners, and by nightfall more than 100 plywood-and-plastic shanties had been erected.

A Campaign spokesman said that at least 200 persons would be living in the structures by last night.

One postal official said the settlement had been tentatively assigned the zip code of

20013. But another said the matter of mail delivery was still being worked out.

A wooden barricade went up at the camp entrance yesterday and Campaign marshals politely shooed away reporters and other outsiders.

Several explanations were given.

"We are not animals in a zoo, but people trying to establish a nonviolent community," said the Rev. A. E. Sampson, an SCLC field director. Mr. Bevel said it was to keep the work crews from being distracted, while Mr. Lafayette said it was to prevent injuries to visitors.

One nonparticipant admitted was Stokely Carmichael, former chairman of the Student Nonviolent Coordinating Committee, who made a smiling, hand-shaking visit to the scene during the afternoon.

Mr. Bevel later described Carmichael as "a friend and brother . . . one of the very important and outstanding black leaders in the country."

Early in the day, Sen. Charles H. Percy (R.-Ill.) dropped by to don a carpenter's apron and pound a nail into a shelter.

He again endorsed the Campaign and said that as long as it is kept nonviolent and reasonable, "We must be receptive, we must listen and we must learn."

At the press briefing, Mr. Lafayette restated the SCLC aim of maintaining order. The campground, he said "will be a nonviolent city—the first we know of in the United States."

Mr. Bevel said the protesters will practice "political psychiatry" on the Nation's leaders and "educate" them on the need to eliminate poverty now.

In another action, the National Capital Area Child Day Care Association said it would continue its day-care program for the marchers' preschool children at Sacred Heart Church, 16th Street and Park Road nw.—until the families can move into the camp site.

Meanwhile, representatives of the National Welfare Rights Organization met with officials of the Department of Health, Education and Welfare to discuss pending welfare amendments to the Social Security Act, to which they object.

Dr. George A. Wiley, head of the Organization, said later he would call for protest demonstrations throughout the country when the amendments take effect July 1.

At Resurrection City, the first arrivals were busy getting acquainted with their new surroundings.

One Mississippi woman ran her hand across the plywood walls and commented: "This is okey. It's better than what we have at home."

The youngsters darted here and there and scampered across piles of lumber. One woman started to cuff her unruly son but was restrained by another mother, who said, "Uh-uh, no violence now."

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, D.C., April 11, 1968.

Mr. R. STUART GRIZZARD,
Cochairman, Rally Committee, the Crusade of the Americas, Continental Congress on Evangelism, Alexandria, Va.

DEAR MR. GRIZZARD: We wish to acknowledge your request of March 29, 1968 requesting its meeting of the Congress on Evangelism on Sunday, October 13, 1968 between ing its meeting of the Congress on Evangelism on Sunday, October 13, 1968 between 4:30 and 5:30 p.m.

Because of the civil strife that is taking place in Washington, we are not making any commitments or issuing permits for large gatherings in our public parks.

If, at a later date this problem ends and we foresee no future difficulties, we will be glad to consider the possibility of your group holding this event as requested.

We will be glad to keep in touch with you on this matter.

Sincerely yours,

MONTE E. FITCH,
Superintendent.

BAPTISTS DENIED PERMIT FOR WASHINGTON MARCH

WASHINGTON.—A permit for a public march and rally by Baptists here during the Continental Congress of the Crusade of the Americas, October 10–13, has been denied because of recent and possible future civil disorders.

William J. Cumbie, executive director of the Washington area committee for the Crusade of the Americas, however, assured Baptists that they should feel free and safe to come to the Continental Congress in large numbers.

He pointed out that only a limited area in the inner city in the ghetto area was burned and that the remainder of the city is functioning normally.

Likewise, Cumbie continued, the failure to obtain a permit for a march and rally for the Baptists in no way affects other plans for the Continental Congress. It only means that the plans for the march and rally are being held in abeyance, he said.

Plans had earlier been made by the North American Committee for the Crusade of the Americas for a Baptist march from the U.S. Capitol to a rally at the Washington Monument.

Cumbie's reassurance came after he received a notice about the proposed march and rally from Monte E. Fitch, superintendent of Ceneral National Capital Parks, National Park Service, Department of the Interior.

The letter from Fitch said: "Because of the civil strife that is taking place in Washington, we are not making any commitments or issuing permits for large gatherings in our public parks."

The notice indicated that the possibility of a march and a rally are not a closed matter. "If, at a later date this problem ends and we foresee no further difficulties, we will be glad to consider the possibility of your group holding this event as requested," it said.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 171. An act for the relief of Timothy Joseph Shea and Elsie Annet Shea; and

S. 1052. An act for the relief of Nicholas S. Cvetan, U.S. Air Force (retired).

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 2263. An act for the relief of Henry E. Bullock;

H.R. 15462. An act for the relief of Lennart Gordon Langhorne;

H.R. 16025. An act to amend title 38 of the United States Code with respect to eligibility for, and the period of limitation on, educational assistance available under part III of such title, and for other purposes; and

H.R. 17354. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1969, and for other purposes.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred as indicated:

H.R. 2263. An act for the relief of Henry E. Bullock; and

H.R. 15462. An act for the relief of Lennart Gordon Langhorne; to the Committee on the Judiciary.

H.R. 16025. An act to amend title 38 of the United States Code with respect for eligibility for, and the period of limitation on, educational assistance available under part III of such title, and for other purposes; to the Committee on Labor and Public Welfare.

H.R. 17354. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1969, and for other purposes; to the Committee on Appropriations.

COST OF AIRPORT AND AIRLINE MODERNIZATION

Mr. PROXMIRE. Mr. President, I rise to support the Johnson administration's plan to pass the cost of airport and airline modernization on to those who use the airlines.

It seems eminently fair to me that the individuals and the companies using airlines and airport facilities should pay for the cost of modernizing air service. After all, the great bulk of our air travel in this country is a tax-deductible cost of doing business as managerial personnel and executives wing their way between the major cities of the United States for their companies.

It is regressive in the extreme to tax the nine out of 10 Americans who use the airlines little or not at all for the benefit of the more affluent people who use the airlines heavily.

Secretary of Transportation Boyd has shown a great deal of courage in proposing this approach, knowing full well that it would provoke protests from the airlines lobby. I hope that Members of Congress will demonstrate similar strength in approving the users' fee proposal quickly and decisively.

Most important of all, this is a very timely proposal. This is one way, and a good way, to ease the burden on the budget, to reduce spending from general revenue, and to reduce the inflationary impact of Federal fiscal policy.

Mr. President, I yield the floor.

"RESURRECTION CITY, U.S.A."

Mr. BYRD of West Virginia. Mr. President, on May 10 the Secretary of the Interior issued a news release with reference to the much-discussed and highly unusual permit issued to the Southern Christian Leadership Conference for construction of the so-called Resurrection City, U.S.A. adjacent to the Mall in the vicinity of the Lincoln Memorial.

I ask unanimous consent that the letter of application for this permit and the letter from the National Park Service granting it, together with the Department of the Interior's news release of May 10, 1968, be printed in the RECORD at this point.

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

[From the Department of the Interior, Office of the Secretary, May 10, 1968]

NATIONAL PARK SERVICE PERMIT GRANTED NATIONAL CHRISTIAN LEADERSHIP CONFERENCE

The National Park Service today issued a permit to the Southern Christian Leadership

Conference allowing the installation of tents, which will accommodate a maximum of 3,000 persons.

The area covered by the permit is approximately 15 acres between 17th Street, the Lincoln Memorial, Independence Avenue and the Reflecting Pool.

Permission also was granted the SCLC to hold meetings between 7 p.m. and midnight on the paved platform on the west terminus of the Reflecting Pool. The location is across the street from the Lincoln Memorial.

The permit also provides for the installation of an exhibit in the vicinity of the Smithsonian Institution. The exhibit will be developed by the staff of the Poor People's Campaign with the technical assistance of the Smithsonian staff. The exhibit is intended to portray living accommodations typical to those occupied by the campaign participants, in their home areas. The exhibit area will not be used for living quarters.

This permit will be in effect from 8 a.m. Saturday, May 11, until 8 p.m. Sunday, June 16.

The normal traffic flow on Independence Avenue and 17th Street will not be affected.

The permit specifies the SCLC will make arrangements for and will provide at its own expense toilet, bathing and washing facilities and disposal of wastes by making connections with existing lines. Similar connections will be made by the SCLC for electric power and telephones again at its own expense.

The permit calls for SCLC to provide security or a contractual commitment satisfactory to the National Park Service to guarantee cleanup of the area upon the permit's expiration.

The SCLC also committed itself to maintain good order through a system of marshals with the understanding, however, that the authority of law enforcement agencies in the exercise of their responsibilities would not be affected.

It is also specified that the permit does not authorize any activity or conduct by the permittee or participants in violation of applicable laws and regulations.

The terms of the permit were developed by the Department of the Interior in collaboration with the Department of Justice, General Services Administration, and the District Government. Representatives of the SCLC and their attorneys from the NAACP Legal Defense and Educational Fund, Inc. presented the application.

Copies of the permit and application are attached.

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE, NATIONAL CAPITAL REGION,
Washington, D.C., May 10, 1968.

Rev. BERNARD LAFAYETTE, Jr.,
National Coordinator,
Washington Poor People's Campaign,
Washington, D.C.

DEAR REV. LAFAYETTE: Pursuant to the provisions of 36 CFR 50.19, permission is granted the Southern Christian Leadership Conference ("Permittee"), 334 Auburn Avenue, N.E., Atlanta, Georgia:

(a) for the purpose of setting up and maintaining tents and appurtenant temporary structures designed by Permittee as "Resurrection City, U.S.A.", for the use of not more than 3,000 persons, to use that portion of park land in the District of Columbia which is an area west of 17th Street, N.W. and north of westbound Independence Avenue to be agreed upon by the staffs of Permittee and the National Park Service and marked by stakes placed in advance by the National Park Service, said area being referred to herein as "Area A";

(b) for the purpose of holding meetings, to use the paved platform on the west terminus of the Reflecting Pool and the steps leading down to said platform daily from 7:00 p.m. until 12:00 Midnight, said area being referred to herein as "Area B";

(c) for the purpose of installing a display, consisting of not to exceed six (6) facilities such as a rural type dwelling and appurtenances and used trailers or buses, which facilities shall be maintained solely for display and shall not be occupied as living quarters, to use an area adjacent to the Smithsonian Institution to be agreed upon by the staffs of Permittee, the Smithsonian Institution and the National Park Service, said area being referred to herein "Area C."

This permit is granted in response to Permittee's application of May 10, 1968, for certain purposes of the demonstration designated by Permittee as the "Poor People's Campaign." This permit covers the areas designated and the activities described herein and is issued subject to all of the conditions enumerated herein.

1. This permit shall take effect as of 8:00 a.m., on Saturday, May 11, 1968, and shall remain in effect until 8:00 p.m. on Sunday, June 16, 1968.

2. Permittee shall provide in advance a general layout and construction plan for Area A for review by the National Park Service for adequate compliance with health and safety standards and shall proceed in accordance with said plan as approved by the National Park Service. Permittee shall install the structures in Area A in a neat and orderly plan beginning at the westernmost edge of Area A and moving eastward in a reasonably compact pattern. Permittee shall maintain the premises in accordance with applicable health and safety standards and shall facilitate periodic inspection of structures and facilities by appropriate health, safety and fire authorities of the National Park Service and of the District of Columbia to insure maintenance of such standards.

3. Permittee shall provide toilet, bathing and washing facilities and shall provide for the disposal of sewage from such facilities by making connection with available sewage lines. Permittee may connect into available water, communication and electric facilities. All utility connections shall be at the expense of Permittee. Permittee shall comply with the requirements of the National Park Service and of the District of Columbia regarding the construction and maintenance of such connections. Permittee shall arrange for the installation of necessary utility meters at its expense. Payment to suppliers for utility services shall be the responsibility of Permittee.

4. Permittee shall hold the United States and the District of Columbia harmless in the event of the death of or injury to any person or the destruction of or damage to any property, not arising out of acts of the Indemnitees' employees or agents.

5. Ingress to and egress from Area A by vehicles necessary to serve said area and the parking of such vehicles shall be at locations designated by the National Park Service.

6. Permittee may install fences within and around Areas A and C. The design of exterior fencing shall be subject to the approval of the National Park Service.

7. No firearms, weapons, explosives, or incendiary materials, and no fossil-fueled lanterns or open fires shall be permitted in the designated areas.

8. Upon cessation of the use of the designated areas under this permit, Permittee shall remove all facilities installed by or for it and shall restore the areas to their prior condition, reasonable wear and tear of the turf excepted. To guarantee compliance with this requirement, Permittee shall deposit $5,000 in cash with the National Park Service or shall execute an undertaking in the amount of $5,000 with two sufficient sureties satisfactory to the National Park Service or to furnish a contractual commitment therefor satisfactory to the National Park Service.

9. Permittee shall provide sufficient medical personnel and facilities to insure first aid and the maintenance of adequate medical care.

10. Permittee shall provide marshals, appropriately identified, in sufficient numbers to maintain good order, but this shall not limit, impair, or otherwise interfere with the authority of law enforcement agencies in the exercise of their responsibilities.

11. Permittee shall cause garbage and refuse of all kinds to be stored in covered, fly- and vermin-proof receptables to be provided by Permittee, and Permittee shall be responsible for daily removal thereof, at its expense.

12. In the event Permittee desires to use other park areas during the term of this permit or to request an extension thereof, the issuance of permits will be considered in good faith upon the receipt of specific requests therefor. However, Permittee may make use of areas for appropriate forms of recreation in sites designated by the National Park Service for that purpose.

13. Any loud-speaking equipment used will be so adjusted as to be audible only to those people in the immediate area.

14. Permittee shall keep the designated areas in a reasonably neat and clean condition, taking into account the purposes for which they are assigned. Permittee may plant flowers and shrubs in Area A for the enjoyment of the participants. No existing trees and shrubs may be disturbed.

15. No livestock may be stabled or kept in the designated areas.

16. This permit does not authorize any activity or conduct by Permittee or participants in violation of applicable laws or regulations. The National Park Service reserves the right to revoke this permit at any time in the interest of public safety and the general welfare.

17. The rules and regulations set out in 36 CFR Part 50, a copy of which is attached hereto as Exhibit "A" shall be applicable to Permittee and participants to the extent not inconsistent with the express provisions of this permit.

Upon the acceptance of the conditions contained in this letter, indicated by the signature of Permittee in the space provided and the return of the carbon copy properly executed to this office, this letter becomes a permit for the purposes described.

Sincerely yours,

NASH CASTRO,
Regional Director.

Accepted and agreed to this 10th day of May, 1968:

SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE,
BERNARD LAFAYETTE, Jr.,
National Coordinator of Washington Poor People's Campaign.
WALTER E. FAUNTROY,
Director, Washington Bureau, Southern Christian Leadership Conference.

NAACP LEGAL DEFENSE EDUCATIONAL FUND, INC., LEGAL SERVICES COMMITTEE, POOR PEOPLES CAMPAIGN
Washington, D.C., May 10, 1968.

Re Application for permit.

Mr. NASH CASTRO,
Regional Director, National Capital Region, National Park Service, Department of the Interior, Washington, D.C.

DEAR MR. CASTRO: The undersigned of the NAACP Legal Defense and Educational Fund, Inc., as counsel for the Southern Christian Leadership Conference, hereby applies for a permit for use in connection with the Poor Peoples Campaign and the establishment of and maintenance of "Resurrection City, U.S.A." pursuant to 36 C.F.R. 50.19 of Code of Federal Regulations, as follows:

Name of applicant: Southern Christian Leadership Conference

Time: 8 a.m. on Saturday May 11, 1968, until 8 p.m. on Sunday, June 16

Place of proposed event: An area west of 17th Street, N.W. and north of westbound Independence Avenue to be agreed upon by the staffs of the applicant and the National Park Service.

Estimate of number of persons expected to attend: 2,000–3,000.

Statement of equipment and facilities to be installed by applicant for use in connection therewith: Pre-fabricated shelters; sanitary facilities; water; electricity; telephone; connection to existing sewers for waste disposal; etc.

We shall be available to furnish such additional information as you may require in the processing of this application.

Very truly yours,

FRANK D. REEVES,
Chairman, Legal Services Committee.
LEROY D. CLARK,
NAACP Legal Defense and Educational Fund, Inc., as Chief Counsel for the Poor People's Campaign of the Southern Christian Leadership Conference.

Mr. BYRD of West Virginia. On April 17, 1968, in a press conference, the following statement was attributed to the Secretary of the Interior when questioned as to the possibility of using National Park Service property for the construction of dwellings of this type:

Question: Well, now, when your people conferred with these leaders, and the time is very short—I understand they are keeping secret just exactly where they expect to put the shacks. So maybe they have not made definite proposals. But your people are conferring with them. Are you prepared to give them permission to put the shacks in these parks?

Secretary UDALL. I have no proposal that has been presented to me for the erection of shacks anywhere.

Question: Will you do it? Will you give your permission for that when the proposal comes? Surely you are ready for the question.

Secretary UDALL. Well, I would think that our National Parks area—we have the local park system here, are parks for the use of all the people, and that we should follow the policies that we always have. We have marches in parks, and we have different kinds of activities in parks. But I think we are not—it would not be proper to turn parklands over to any group of people for permanent or temporary use for any kind of human shelter of any kind. And I just—this has been our attitude towards the problem in the past. We have all kinds of requests for park use. And it is the reason that I think many of the stories that I have seen are imagination of people, rather than actual plans or proposals—because there is no proposal of any kind that I know of for such use of the parks at this time.

I, of course, understand the conditions prevailing at the time Secretary Udall made these comments, and do not believe that he can be held personally accountable for subsequent developments. In fact, I rather expect that if the matter had been left entirely in his hands, the request for this particular permit would have been handled exactly as similar requests have been in the past.

Perhaps there is no room left for surprise in connection with the Federal Government's handling of this matter; however, I must confess my amazement to learn that the embarrassingly modest guarantees for protection and restoration of this property were not received before construction began.

I had an opportunity to inquire of the National Park Service yesterday as to whether or not the guarantee requested by section 8 of the permit had been received, and I ask unanimous consent that my inquiry and a copy of the reply received be printed at this point in the RECORD.

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

MAY 21, 1968.

Mr. NASH CASTRO,
Regional Director, National Capital Region, National Park Service, Washington, D.C.:

Will appreciate your immediate advice as to whether or not guarantee required by section 8 of permit issued by you as Regional Director, National Capital Parks, to the Southern Christian Leadership Conference on May 10, 1968 has been received and if so in what form. In view of present intensive usage will also thank you to advise me as to the sufficiency of this bond to "remove all facilities installed by or for it and shall restore the areas to their prior condition.

ROBERT C. BYRD,
U.S. Senator, Chairman, D.C. Subcommittee, Senate Appropriations Committee.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: The bond required by Section 8 of the permit issued on May 10 to the Southern Christian Leadership Conference has not been received; however, we are assured by SCLC's attorneys that they are working on it and that we should receive it at any time. We have been led to believe that, in lieu of a bond, SCLC will deposit a certified check with us.

We shall keep you posted on our progress to fulfill this requirement of the permit.

With all best wishes,

Sincerely yours,

RUSSELL E. DICKENSON,
Associate Regional Director.

Mr. BYRD of West Virginia. As we all know, construction began on this site well over a week ago; and from photographs of the area which have appeared in the newspapers, some question might be raised as to the sufficiency of the original guarantee to return the property to its former state.

Mr. President, I shall read the reply which was received from the Associated Regional Director this morning to my inquiry as to whether or not the money, in the amount of $5,000, which was to represent the bond, has been received. The reply is as follows:

DEAR SENATOR BYRD: The bond required by Section 8 of the permit issued on May 10 to the Southern Christian Leadership Conference has not been received; however, we are assured by SCLC's attorneys that they are working on it and that we should receive it at any time. We have been led to believe that, in lieu of a bond, SCLC will deposit a certified check with us.

We shall keep you posted on our progress to fulfill this requirement of the permit.

With all best wishes,

Sincerely yours,

RUSSELL E. DICKENSON,
Associate Regional Director.

Certainly, there can be no excuse for the specified guarantee not being in hand before construction began, and I call upon the Secretary of the Interior to fully protect the Government's interests in this matter.

PROPOSED LOWERING OF THE VOTING AGE

Mr. HOLLAND. Mr. President, several days ago I had the honor to appear before the Senate Subcommittee on Constitutional Amendments of the Committee on the Judiciary, which is headed by the distinguished Senator from Indiana [Mr. BAYH], as chairman. I appeared in opposition to a pending Federal constitutional amendment to provide for the age of 18 as a qualification for voters in all Federal elections.

I am strongly opposed to that approach, not only because I am opposed to the Federal Government's taking over jurisdiction in this field, which, ever since the beginning of our Nation, has been a field reserved to the States, but also for additional good reasons which I attempted to state in my appearance.

Among other things, I called attention to the fact that since 1954, the time of adoption of the Kentucky amendment reducing the age limit in that State to 18, there have been five separate occasions on which such proposed constitutional amendments have been submitted in our States, all of which have resulted in defeats by the electorate of those States. The five occasions are as follows:

In the State of Oklahoma, the voters rejected such an amendment.

In the State of Idaho, such an amendment met the same fate.

In the State of Michigan, such an amendment met the same fate.

In the State of South Dakota, it was twice submitted to the good people of that State and was twice rejected. Incidentally, the second time, the good people of South Dakota rejected it a good deal more strongly than they did on the first occasion.

In my appearance before the subcommittee, I also called attention to the fact that there have been two instances in which proposed new constitutions have been submitted to the people of great States and have been rejected, and in both instances those proposed constitutions included provisions for reduction of the voting age. Those two States were the States of New York and Maryland. In the State of New York, the constitution as proposed was rejected by a vote of 3-to-1 as I recall. In the State of Maryland, the proposed constitution was rejected only a few days ago, as Senators will recall, by a sizable vote.

Mr. President, I did not pretend to say to that subcommittee that the inclusion of proposals to reduce the voting age had any fixed connection with the fact that these constitutions had been rejected by their people; but I stated the belief that such might have been a contributing cause.

In today's Washington Star is a collection of letters from citizens of Maryland stating their attitudes with reference to rejection by the people of Maryland of the proposed constitution about a week ago. Two of those letters bear upon the point I have been discussing, and I shall read them into the RECORD. The first letter reads as follows:

SIR: The proposal to let 19-year-olds vote may be the prime reason for the defeat of the

new constitution. The youth of this country have not in the past few years distinguished themselves by acts of responsibility or consideration. It may be that the revolting taxpayers of Maryland have decided that those who contribute little as a group to the economy of the state should have little right to determine how other people's money and institutions should be controlled.

The "all or nothing" proposal has reaped its reward.

WILLIAM I. BROOKS.

WHEATON, MD.

The other letter reads as follows:

SIR: As a Maryland voter and one of those who voted against the new constitution, I would like to express my opinion as to why the proposed constitution was defeated. There were only two sections of the proposed constitution of which I disapproved: Those pertaining to the changing of the status of the office of controller and permitting 19-year-olds to vote.

LUTHER SKAGGS Jr.

CHURCHTON, MD.

Mr. President, it is very apparent that those who are seeking to change the voting age to 18 throughout our Nation by Federal amendment are swimming up stream because the stream of popular expression since 1954 has been so fully and clearly against the reduction of the voting age.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

The Senate resumed the consideration of the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

Mr. McCLELLAN. Mr. President, before proceeding to the amendments to title III, I should like to give a brief history of this legislation and a short statement of what it intends to accomplish.

Title III is essentially a combination of S. 675, the Federal Wire Interception Act, which I introduced on January 25, 1967, and S. 2050, the Electronic Surveillance Control Act of 1967, introduced by Senator HRUSKA on June 29, 1967.

Subsequent to the introduction of S. 675, the U.S. Supreme Court, on June 12, 1967, handed down the decision in *Berger* v. *New York*, 388 U.S. 41, which declared unconstitutional the New York State statute authorizing electronic eavesdropping, bugging, by law-enforcement officers in investigating certain types of crimes. The Court held that the New York statute, on its face, failed to meet certain constitutional standards. In the course of the opinion, the Court delineated the constitutional criteria that electronic surveillance legislation should contain. Title III was drafted to meet these standards and to conform with *Katz* v. *United States*, 389 U.S. 347 (1967).

Title III has as its dual purpose, first, protecting the privacy of wire and oral communications; and second, delineating on a uniform basis the circumstances and conditions under which the interception of wire and oral communications may be authorized. To assure the privacy of oral and wire communications, title III prohibits all wiretapping and electronic surveillance by persons other than duly authorized law enforcement officers engaged in the investigation or prevention of specified types of serious crimes, and only after authorization of a court order obtained after a showing and finding of probable cause. The only exceptions to the above prohibition are, first, the power of the President to obtain information by such means as he may deem necessary to protect the Nation from attack or hostile acts of a foreign power, to obtain intelligence information essential to the Nation's security, and to protect the internal security of the United States from those who advocate its overthrow by force or other unlawful means; second, employees of the Federal Communications Commission may, in the normal course of employment, intercept and disclose wire communications in the discharge of the monitoring responsibilities discharged by the Commission in the enforcement of chapter 5 of title 47 of the United States Code; and third, employees of a communication common carrier may intercept and disclose wire communications in the normal course of their employment while engaged in any activity necessary to the rendition of service, or protection of the rights or property of the carrier of such communication.

Mr. President, in drafting this legislation, we have been most careful to include every possible constitutional safeguard for the rights of individual privacy while, at the same time, drafting a bill under which law-enforcement officers could use electronic surveillance techniques to effectively combat organized crime.

Legislation containing the safeguards and meeting the constitutional standards set out in title III, which grants to law enforcement officers authority to use electronic surveillance techniques in the investigation of major crimes and upon obtaining a court order has been endorsed by the following groups and organizations:

The President's Commission on Law Enforcement and Administration of Justice.

The Judicial Conference of the United States.

National Association of Attorneys General.

National District Attorneys Association.

Association of Federal Investigators.

The National Council on Crime and Delinquency.

Mr. President, it has also been endorsed by many others. I shall not take the time to list all of them, but by way of emphasis I may say that this character of legislation has been recommended by every Attorney General since 1931, excepting the present Attorney General.

Mr. President, I simply want to add that the Federal Government, through its Department of Justice, takes the position that this character of evidence and this method of attaining evidence of crime is necessary, that it is essential, and that it is indispensable with respect to maintaining our national security. This bill grants the President the right to wiretap and to use electronic surveillances without obtaining an order of court.

Now, Mr. President, if such techniques and procedures are necessary to protect our Government from any danger that threatens from without, from another country, surely it is also justified in the protection of our country in the proper use against the crime wave that is sweeping this Nation today, which is, with all of its force and potentials, a great danger to our internal security.

The greatest danger to America today is not from without; the greatest danger to America at this hour is the lawlessness, the violence, and the organized syndicated crime that prevails within.

This title of the bill seeks to give to our law enforcement agencies a weapon that is essential, that is necessary, and the use of which against organized crime is becoming more imperative as each day passes. If we have this weapon we can wage a successful war against crime—particularly organized crime.

Mr. LAUSCHE. Mr. President, will the Senator from Arkansas yield for a question.

Mr. McCLELLAN. I yield.

Mr. LAUSCHE. Does the bill as now written give absolute, unconditional power to stop searches or tapping, or to authorize tapping?

Mr. McCLELLAN. No. We have to go first to the Attorney General in the case of the Federal Government, and to the chief law enforcement officers of a State, and the State government must authorize the request for a petition to a court for an order, and that order must be supported by evidence showing probable cause, and the court has the jurisdiction in the matter to direct specifically where, how, and the time that it shall be performed, and requires a report to be made to the court. It is very similar to our traditional search and seizure warrants. I may say that every safeguard, in keeping with what the Supreme Court has said in the most recent cases, would be required. Every constitutional safeguard has been placed in the bill.

Mr. LAUSCHE. There is, then, a prohibition against tapping unless the application is filed with the chief law enforcement official. He approves it and then the application is filed with the court, is that not correct?

Mr. McCLELLAN. The chief law enforcement officer, like the Attorney General of the United States, must authorize the application, and then the district attorney or whoever proposes the application must go to court and make a showing of probable cause before the court can issue the order. A prosecuting attorney or a U.S. district attorney cannot, on his own motion, do it. He has to get the authority from the Attorney General of the United States first to submit the application to the court.

Mr. LAUSCHE. What courts will have jurisdiction under that grant?

Mr. McCLELLAN. U.S. District Courts and Circuit Courts will have the jurisdiction, as they have in the case of search warrants.

Mr. LAUSCHE. What about State courts?

Mr. McCLELLAN. The States will have to pass a statute which conforms with the law. They cannot pass one contrary to it.

Mr. LAUSCHE. Is the bill as now written by the committee predicated upon the same principle as that contained in support of the provisions of the Constitution of the United States, which holds that the home of an individual shall be inviolate against search except when there is issued such authority by a competent court to make a search built upon evidence supporting the issuance of that authority?

Mr. McCLELLAN. Completely so, let me say to my friend. Completely so, and it is even more restrictive. We have gone to every length which is proper, we think, to protect people's privacy. Today individual privacy is being promiscuously invaded all over the country. The law is weak. The people who are against this title will talk about invasion of privacy but, privacy is being invaded today all the time. Now they are going a bit further. Today snoopers get hired to install tapes and electronic surveillance devices, and they are getting by with it because we cannot convict now under the present law; because we have to prove not only interception, but use. That absolutely prohibits anyone——

Mr. LAUSCHE. Subject to penalty.

Mr. McCLELLAN. Yes, subject to penalty; 5 years or $10,000 fine. This tightens the law on the invasion of privacy. That is the very first thing it does. That is one of its objectives, to correct present law, and at the same time not deny but permit, under the strictest regulation, court ordered supervision, and utilization of this technique for the investigation of crime.

Mr. LAUSCHE. I thank the Senator very much.

AMENDMENT NO. 734

Mr. LONG of Missouri. Mr. President, I call up my amendment No. 734 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Subparagraph 8(d) of section 2518, title III, is amended as follows:

Strike lines 13, 14, and 15 on page 73.

The language is as follows:

"On an ex parte showing of good cause to a judge of competent jurisdiction the serving of the inventory required by this subsection may be postponed."

Mr. LONG of Missouri. Mr. President, let me say, first, that I join the distinguished Senator from Arkansas in his desire to see that the criminal laws of this Nation are enforced. In all the years I have served in the Senate, I have actively supported, either in committee or on the floor of the Senate, each and every bill which would aid attorneys general in that which they requested to help law enforcement—with one exception, and that was the wiretapping bill of some years ago.

I, too, have served as a prosecutor in my home State, and I am as devoted to the proposition that our criminal laws shall be enforced as any other Member of this body. But, Mr. President, I feel that the law can be adequately enforced without invading the privacy of our citizens and denying them their constitutional rights. That is the only difference that the Senator from Arkansas and I have, so that our efforts will be joined to bring the bill into conformity with that view and certainly not with any intention of not fully enforcing the law but enforcing it so that our citizens will have their rights protected.

It would be unfortunate to enforce the criminal law on one hand and, at the same time, have our citizens lose their right to privacy. That would be the first step toward a police state.

It is to those points that Senators who are opposed to this particular title will direct their efforts during the next few hours.

Mr. MANSFIELD. Mr. President, will the Senator from Missouri yield for a moment without losing his right to the floor so that I may suggest the absence of a quorum?

Mr. LONG of Missouri. I yield, under those conditions.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LONG of Missouri. Mr. President, while the Senate has been wrestling with the nitty problem of electronic eavesdropping, a very distinguished group of New York legal experts, headed by the Honorable Sheldon Elsen, has been wrestling with the same problem with more apparent success.

Mr. Elsen is chairman of a Joint Subcommittee on Wiretapping and Eavesdropping Legislation of the Association of the Bar of the City of New York. Members of the subcommittee come from the Committee on Federal legislation and the Committee on Civil Rights.

It is my understanding that the final report of the subcommittee is at the printers now and will probably not be available to us for purposes of the present debate. This is most unfortunate because a tremendous amount of effective work has been done by the subcommittee.

However, a copy of the next-to-last draft has been made available to me for use in consideration of title III of S. 917. One substantive change has been made in the final draft and I shall emphasize this at the proper place in the text. Additionally, minor perfecting changes will be incorporated in the printed version.

With the understanding that the members of the New York bar's subcommittee shall not be held accountable and with thanks to them for making this material available, I wish to discuss the report in some detail as it is the best analysis that I have seen to show that the Senate is far from ready to pass final judgment on the myriad of complicated issues involved in legislation dealing with electronic eavesdropping.

Mr. President, I shall read the report and intersperse appropriate comments as I proceed:

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, COMMITTEE ON FEDERAL LEGISLATION, COMMITTEE ON CIVIL RIGHTS

PROPOSED LEGISLATION ON WIRETAPPING AND EAVESDROPPING AFTER BERGER *v.* NEW YORK AND KATZ *v.* UNITED STATES

INTRODUCTION

The vexing subject of wiretapping and eavesdropping has been under review by Congress for years and has been the subject of numerous and conflicting reports and studies by many groups, including Committees of this Association. The serious consideration currently being given by the Congress to various legislative proposals, together with the new constitutional guidelines laid down in the recent United States Supreme Court decisions in *Berger* v. *New York*, 388 U.S. 41 (1967) and *Katz* v. *United States*, ——— U.S. ——— (1967), require a fresh appraisal both of the problem and of possible solutions.

The difficulty of the issues presented by wiretapping and eavesdropping is illustrated by the sharp divisions of opinion which have frequently separated even those who have given the matter thoughtful attention. For example, in 1962, when an Administration bill that provided for limited wiretapping was before Congress, two committees of this Association issued reports, one approving and the other disapproving the bill, because of a difference of opinion as to whether any wiretapping by law enforcement officials should be permitted. (See Reports of Committees of the Association of the Bar concerned with Federal Legislation, Vol. I, Bulletin No. 3, July 1962, pp. 93 and 126.) There was also a division of opinion in the recent landmark report by the President's Commission on Law Enforcement and the Administration of Justice (the "President's Commission"), which said:

"A majority of the members of the Commission believe that legislation should be enacted granting carefully circumscribed authority for electronic surveillance to law enforcement officers to the extent it may be consistent with the decision of the Supreme Court in Berger v. New York, and, further, that the availability of such specific authority would significantly reduce the incentive for, and the incidence of, improper electronic surveillance.

"The other members of the Commission have serious doubts about the desirability of such authority and believe that without the kind of searching inquiry that would result from further congressional consideration of electronic surveillance, particularly of the problems of bugging, there is insufficient basis to strike this balance against the interest of privacy."

In view of the variety of legislative options which have been proposed in recent months, and the new constitutional climate in which these choices must now be considered, the Committees on Federal Legislation and Civil Rights have deemed it appropriate to mount a joint effort to consider these problems, in which they have a common interest. Accordingly a joint subcommittee was created and charged with the task of detailed study. The subcommittee, whose members, like those of the full Committees, came from widely differing professional backgrounds and many of them initially held widely divergent views, ultimately reached agreement on many issues. Similarly, the two full Committees, after extensive and vigorous discussion, have themselves achieved substantial consensus.

Three basic areas of agreement have emerged:

1. All of us agree that wiretapping and eavesdropping are highly dangerous practices presenting an extraordinary threat to individual liberties.

2. All of us agree that the chaotic conditions presently existing in this field serve neither the interests of individual liberty nor the legitimate needs of law enforcement,

and can no longer be tolerated. These conditions include: a wiretap law which, although on its face strictly prohibitive, is unenforced and unenforceable; wholesale violations of existing law by individuals and law enforcement agencies throughout the country; virtual absence of any regulation of eavesdropping, despite its increasing prevalence and the exploding technology in the area; and a confusing hodgepodge of standards under existing state laws.

3. Most of us agree that, in the light of the foregoing, new legislation is required under which wiretapping and eavesdropping would be narrowly confined and strictly controlled, under uniform standards and precisely defined circumstances.[1]

Let me interpose the suggestion that, although all sides seem to agree that some new legislation is called for, we must be extremely careful in adopting new legislation that we are not swapping the devil for the witch.

Agreed, the present state of the law is unsatisfactory. Yet, if title III of S. 917 passes in its present form, the state of society may be infinitely worse.

True, we can clarify the law, and it undoubtedly needs clarification, but by clarifying it, let us not completely open the door to big brother. He neither needs nor deserves our help.

The report of the subcommittee continues:

Starting from these premises, we have examined three principal measures[2] currently pending before Congress, embodying substantially differing approaches to the problem, and have also considered certain proposals advanced by Committee members and others. Not one of the three bills has been found fully satisfactory. Each, however, contains elements which, when combined with certain other provisions discussed below, we believe could provide a constructive and viable basis for new federal legislation, on an experimental basis.

Summary and recommendations

Part I of this Report deals with the Constitutional requirements under the Fourth and Fourteenth Amendments which have been laid down by recent Supreme Court decisions. Part II describes the three legislative proposals which were considered by our Committees. Part III proceeds to analyze the issues presented by the Blakey bill out of which evolve many of the recommendations of this Report. In Part IV the Report deals with the problem of consent wiretapping and eavesdropping. Part V discusses federal power under the Constitution to control wiretapping and eavesdropping and the manufacture and distribution of devices for such use. Part IV considers prohibitions on the manufacture and distribution of eavesdropping devices.

Our principal recommendations are as follows:

1. All private third party wiretapping and eavesdropping should be prohibited and private eavesdropping with consent of one of the parties should be sharply curtailed.

2. Wiretapping and eavesdropping by governmental officials, both federal and state, should in general be prohibited except for (a) cases involving murder, kidnapping or espionage, and the foreign intelligence activities of the United States government and (b) a very small quota, nationally administered, of taps and bugs to obtain evidence of all other crimes.

3. In addition, all permitted wiretapping and eavesdropping, whether federal or state, should require specific authorization by prior federal court order, except that in certain narrowly defined exigencies, the validating order could be sought promptly thereafter.

4. The legislation should prescribe a carefully drawn system of limitations as to the circumstances in which such orders may be granted, including the requirement that moving papers specify with particularity the probable cause, the conversations sought and the necessity for use of the requested means of interception, as well as restrictions and prohibitions relating to permitted times and places of interception and the nature of the conversations which may be intercepted.

5. Disclosure of taps and bugs should be made within a reasonable time after expiration of the authorizing order to persons who are the subject of wiretapping and eavesdropping orders.

6. The manufacture and distribution of devices for wiretapping and eavesdropping should be regulated, preferably by an administrative body with broad authority to prohibit or license.

7. In addition to the exclusionary rule, criminal and tort remedies, including liquidated damages, should be provided for persons subjected to unauthorized taps or bugs.

It must be emphasized that the foregoing recommendations are the principal features of a single legislative package of interrelated controls which should be defined in any bill with great particularity. The integrity of this suggested system is indispensable to the approval by these Committees of any permissive legislation in the field; indeed, were any major element to be omitted, most of us would oppose enactment of the remainder.

Let us see how many of the "major elements" are provided in title III of S. 917.

First. As to recommendation No. 1: The pending bill would prohibit all private third party wiretapping; it would not sharply curtail private eavesdropping with consent of one of the parties.

Second. As to recommendation No. 2: The pending bill would not strictly limit the crimes for which court orders could be obtained; conversely, it would permit eavesdropping in case of a suspicion of almost any felony; further, there is no national quota system whatever.

Third. As to recommendation No. 3: The pending bill would not limit court orders to Federal court orders but would permit State and local judges to issue wiretap orders.

Fourth. As to recommendation No. 4: The pending bill would require reasonably specific orders.

Fifth. As to recommendation No. 5: The pending bill would not require disclosure except as the ordering judge might require it; disclosure can be delayed indefinitely.

Sixth. As to recommendation No. 6: There is provision for the regulation of electronic devices.

Seventh. As to recommendation No. 7: There are civil and criminal remedies for persons subjected to unauthorized taps or bugs.

Toting up the box score, S. 917 contains at best three and one-half of the seven recommendations of the New York City Bar. As the bar's report states:

The integrity of this suggested system is indispensable to the approval by these Committees of any permissive legislation in the field; indeed, were any major element to be omitted, most of us would oppose enactment of the remainder.

Thus, I conclude that the legal experts of the New York City Bar would flatly oppose the enactment of title III of S. 917. And so do I.

Now to continue with the report:

PART I. THE BERGER AND KATZ CASES

Minimum constitutional requirements for wire interception and eavesdropping

In two recent decisions, *Berger* v. *New York* and *Katz* v. *United States*, the Supreme Court laid down constitutional principles relating to wiretapping and eavesdropping which fundamentally altered the requirements which had hitherto been thought applicable. In *Katz*, the Supreme Court explicitly overruled *Olmstead* v. *United States*, 277 U.S. 438 (1928), which held wiretapping to be *outside* the ambit of the Fourth Amendment, and *Goldman* v. *United States*, 216 U.S. 129 (1942), which held that the Constitution does not protect against electronic eavesdropping unless it is accomplished by a trespass. While *Berger* and *Katz* make it clear that wiretapping and eavesdropping are permitted by the Constitution (at least when engaged in pursuant to court orders under carefully drawn statutes) they make it equally clear that at least most law enforcement use of electronic devices that does not meet the standards set out will be impermissible, and that evidence obtained by unconstitutional use will be excluded. Though much is settled by the opinions, some important constitutional questions are left open.

In *Berger*, law enforcement authorities in New York County had obtained a court order under New York's eavesdropping statute, as a result of which eavesdropping equipment was installed in two private offices in New York City. The evidence obtained was admitted to be essential to Berger's conviction. The court, in reversing 5–4, said that the New York statute failed to assure adequate protection for Fourth and Fourteenth Amendment rights. Protection of these rights requires that "a neutral and detached authority be interposed between the police and the public," that orders be issued only upon probable cause, and that they describe with particularity the offense that has been or is being committed, the place at which the electronic device is to be used, and the conversations expected to be overheard. The court stated that New York's statute satisfied the first criterion, the neutral authority. It found it unnecessary to determine whether in fact the probable cause standard had been complied with because the statute was deficient on its face when measured against the requirement of particularization. In describing the inadequacies of the statute, the court said:

"First, as we have mentioned, eavesdropping is authorized without requiring belief that any particular offense has been or is being committed; nor that the property sought, the conversations, be particularly described. The purpose of the probable cause requirement of the Fourth Amendment to keep the state out of constitutionally protected areas until it has reason to believe that a specific crime has been or is being committed is thereby wholly aborted. Likewise the statute's failure to describe with particularity the conversations sought gives the officer a roving commission to seize any and all conversations. It is true that the statute requires the naming of "the person or persons whose communica-

[1] Some members of each Committee feel that wiretapping and eavesdropping is totally repugnant to personal liberties and would prefer no permissive legislation whatsoever.

[2] [S 675, introduced by Sen. McClellan (the McClellan Bill); S 928, introduced by Sen. Edward V. Long in the last session of Congress and supported by the Administration (the Long Bill); and H.R. 13482, drafted by Professor Blakey of Notre Dame Law School at the request of the President's Commission, introduced in the last session of Congress by Rep. McCulloch and the current session by Rep. McDade (the Blakey Bill).]

tions, conversations or discussions are to be overheard or recorded. . . ." But this does no more than identify the person whose constitutionally protected area is to be invaded rather than 'particularly describing' the communications, conversations, or discussions to be seized. As with general warrants, this leaves too much to the discretion of the officer executing the order. Secondly, authorization of eavesdropping for a two-month period is the equivalent of a series of intrusions, searches, and seizures pursuant to a single showing of probable cause. Prompt execution is also avoided. During such a long and continuous (24 hours a day) period the conversations of any and all persons coming into the area covered by the device will be seized indiscriminately and without regard to their connection to the crime under investigation. Moreover, the statute permits, as was done here, extensions of the original two-month period—presumedly for *two months* each—on a mere showing that such extension is 'in the public interest'. Apparently the original grounds on which the eavesdrop order was initially issued also form the basis of the renewal. This we believe insufficient without a showing of present probable cause for the continuance of the eavesdrop. Third, the statute places no termination date on the eavesdrop once the conversation sought is seized. This is left entirely in the discretion of the officer. Finally, the statute's procedure, necessarily because its success depends on secrecy, has no requirement for notice as to conventional warrants, nor does it overcome this defect by requiring some showing of special facts. On the contrary, it permits uncontested entry without any showing of exigent circumstances. Such a showing of exigency, in order to avoid notice, would appear more important in eavesdropping, with its inherent dangers, than that required when conventional procedures of search and seizure are utilized. Nor does the statute provide for a return on the warrant thereby leaving full discretion in the officer as to the use of seized conversations of innocent as well as guilty parties. In short, the statutes blanket grant of permission to eavesdrop is without adequate judicial supervision or protective procedures."

Although the demise of *Olmstead* and *Goldman* was intimated in *Berger*, that case involved a physical trespass and the court did not reach the question of whether the standards it laid down were also applicable to non-trespassing electronic invasions. In *Katz*, F.B.I. agents had used electronic equipment on the outside of a public telephone booth to overhear what petitioner had said inside the booth. In an opinion which seven members of the court joined, Justice Marshall not sitting and Justice Black dissenting, the court extended the principles of *Berger* to cover the facts in *Katz*. It emphasized the importance "of advance authorization by a magistrate upon a showing of probable cause". By overruling *Olmstead*, *Katz* vitiates to a large extent the significance of the traditional Justice Department interpretation of Section 605 of the Federal Communications Act. The Department has maintained that interception of telephone conversations without divulgence is allowed by the statute. Under *Katz*, such interception, if unsanctioned by court order, would be unconstitutional. Apart from confirming the broad implications of *Berger*, *Katz* is important in at least two respects. Relying in part on the reasoning of *Warden* v. *Hayden*, 387 U.S. 294, which discarded the "mere evidence" rule, the court stressed that the purpose of the Fourth Amendment is the protection of privacy, and held that whether or not the Amendment applies does not turn on whether the site of the intrusion is a "constitutionally protected area." What a person "seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected . . . No less than an individual in a business office, in a friend's apartment, or in a taxicab, a person in a telephone booth may rely upon the protection of the Fourth Amendment". *Katz* is also significant because it appears to eliminate a point of confusion generated by *Berger*. *Berger* suggested that eavesdropping without notice could be justified only in "exigent circumstances", but left it uncertain what "exigent circumstances" means in this context. The plain implication in a footnote to Justice Stewart's majority opinion in *Katz* is that whenever the other constitutional requirements are met, an electronic search can be engaged in without prior notice, since such notice would destroy the usefulness of the search.

Although the broad outlines of an acceptable court order system are laid out in *Berger* and *Katz*, the answers to a number of specific questions await further decisions.

Incidentally, Mr. President, the Supreme Court agreed on Monday, April 22, to consider the constitutionality of New York's statute that permits policemen to use wiretapping with court approval—No. 1451, *Kaiser* v. *New York*. Whereas Berger declared New York's eavesdrop—bugging—statute unconstitutional, the Court will consider the separate New York wiretap statute in Kaiser. Maybe Congress should await the Court's views on the special problems connected with wiretapping before proceeding with a bill that the Court may well find unconstitutional.

Mr. President, I continue to read from the report:

Some, but by no means all, of the most important [specific questions] are raised here.

A. Is an Authorizing Statute Required?

In *Berger*, the court invalidated the eavesdropping in that case because of the defective statute without deciding whether the actual orders issued complied with constitutional requirements. If acceptable orders issued under an unacceptable statute are invalid, so, it might be argued, must be acceptable orders issued without any specific statutory authorization. In *Katz*, however, although the point is not specifically considered, the implication is that valid orders can be sought and issued without express authorization. In both *Berger* and *Katz*, the court relied heavily on *Osborn* v. *United States*, 385 U.S. 323 (1966), a case sustaining use of a recorder by a participant in a conversation, in which the court order was not authorized by statute. Whether or not a statute is required is, as a consequence, now unclear, though the desirability of a carefully drawn statutory system is plain.

B. When, If Ever, Are Exceptions to the Prior Court Order Justified?

It has been argued that the requirement of a prior court order is unjustified either in certain classes of cases or when there is a pressing need for immediate use of electronic devices. The first contention is most persuasively advanced in regard to national security cases. It is said that in matters demanding the utmost secrecy a court order system is unworkable. Whatever the merits of this contention, the court gives no indication in *Berger* or *Katz* that these cases fall into a special class. If scrutiny by a "neutral" authority is deemed required, it is conceivable that the court would accept authorization by an executive officer in some cases, but there is no suggestion of this in the opinions. In regard to the "pressing use" argument, the court does state in *Katz* that "it is difficult to imagine how any of these exceptions [for searches conducted outside the judicial process] could ever apply to the sort of search and seizure involved in the case". But it may well be that the court would reconsider this dictum if presented with an appealing fact situation in which the emergency use of electronic devices was followed closely by a submission of the grounds for use to a neutral magistrate.

It should be noted that in title III of S. 917, exceptions to prior court orders can be had in all classes of cases; furthermore, there is no court order, prior or otherwise, in taps and bugs in "national security" cases.

Mr. President, I continue to read from the report:

C. Are Court Orders Required When One Party Consents to Use of a Device?

Until recently, the court has considered situations in which a party to a conversation records or transmits what the other party says differently from situations in which a third person overhears a conversation. In *Lopez* v. *United States*, 373 U.S. 427 (1963), the court held that a revenue agent could, in the absence of a court order, surreptitiously record the incriminating words of someone attempting to bribe him. In *Osborne* v. *United States*, 385 U.S. 323 (1966), a recording was made of incriminating words with prior judicial approval. The court found it unnecessary to re-examine the holding in *Lopez* because in the case before it the circumstances met the "'requirement of particularity', which the dissenting opinion in *Lopez* found necessary". In both *Berger* and *Katz*, *Osborn* is cited as the exemplar of a proper authorization for electronic devices, with no suggestion that consent situations are to be treated differently from third party overhearing. The apparent implication in the language of the majority opinions is that *Osborn* would have come out differently had it not been for the prior court approval. On the other hand, both opinions were joined by Justices who also were in the *Lopez* majority and Justice White in his concurring opinion in *Katz* indicates that surreptitious use of electronic devices by parties to a conversation is constitutional whether or not a court order has been issued. It is probably fair to conclude that *Osborn* was used in *Berger* and *Katz* to make the point that seemed important in those cases, and that the court has not resolved the question of the continued viability of *Lopez* and of another pre-*Osborn* decision, *On Lee* v. *United States*, 343 U.S. 747 (1952). If the court should extend the court order requirement to consent situations, it is unclear whether it would hold statutory authorization to be a constitutional prerequisite. Such a conclusion would fly in the face of the result in *Osborn*.

PART II. THE LEGISLATIVE PROPOSALS

As noted above we have reviewed three bills currently before Congress:

1. *The McClellan bill*

The 1962 Department of Justice Bill has been expanded and reintroduced by Senator McClellan as S. 675. The expansions are material. They provide for wiretap orders in state courts with respect to *any* crime as to which wiretaps are authorized by *state* law, whereas the Department of Justice bill had enumerated the crimes, both State and Federal, with respect to which wiretaps could be authorized. Thus the Bill undermined the uniform federal standards which its own legislative findings had called for and which we believe to be essential. Principally for this reason the McClellan Bill was disapproved by the Federal Legislation Committee in its 1966 report. "Proposed Legislation on Control of Organized Crime," Reports of Committees of the Association of the Bar concerned with Federal Legislation, Vol. 5, Bulletin No. 2, June 1966, pp. 31, 35–37. Since that time, the Bill has been approved by the Judicial Conference of the United States. In deference to

the expertise of that latter body we have again reviewed the Bill. We have concluded, however, that we should adhere to the position taken in the 1966 report, for the reasons there stated. In addition, we find the Blakey Bill, as modified by the recommendations below, to be significantly preferable to the scheme embodied in the McClellan Bill.

For these reasons, the McClellan Bill will not be discussed further in this Report.

2. *The Long bill (administration bill)*

The Administration has supported S. 928, which was introduced by Senator Edward V. Long in the last session of Congress. (H.R. 5386 was an identical version.) That Bill would ban all wiretapping and eavesdropping except for purposes of national security, or where it is done with the consent of one of the parties to the communication. The Long Bill also would bar the manufacture and interstate shipment of wire interception and eavesdropping devices, a provision which is also contained in Professor Blakey's Bill.

The Administration has taken a restrictive position since at least June 30, 1965, when the President issued a directive to the entire federal establishment confining the use of listening devices to intelligence affecting the national security. In all other cases specific authorization by the Attorney General was required. This was followed in July of 1967 by a similar memorandum from Attorney General Ramsey Clark to the Department of Justice.

The issues raised by the Long Bill are discussed in Parts IV–VI of the report. Part IV deals with wiretapping and eavesdropping by private persons, which we believe should be banned. In that Part, we have also opened discussion of "consent" to taps and bugs. We find "consent" unsatisfactory as an organizing concept, and we recommend that Congress not draw the line on this basis, as the Long Bill would have it do. Other problems of "consent" may perhaps be better dealt with in the courts. Part V deals with the relatively novel question of constitutional power to regulate private electronic eavesdropping. We have concluded that it is proper and desirable that Congress should do so.

As to the exemption for national security, we reiterate our pervious position that such interceptions should be subject to judicial control. We believe that federal judges as well as executive officials can be trusted with the nation's security.

3. *The Blakey bill*

The President's Commission had commissioned Professor Robert Blakey of Notre Dame Law School to draft a report on legislative problems in this area and also to prepare a draft statute.

I note that Professor Blakey is in the Chamber and is conferring with the Senator from Arkansas [Mr. McCLELLAN].

Professor Blakey's report and Bill provided for limited and controlled wiretapping and bugging by law enforcement officials, to aid in the fight against organized crime. This Bill (hereinafter referred to as "the Blakey Bill") was introduced in the last session of Congress by Rep. McCulloch and in the current session by Rep. McDade. Its most recent designation is H.R. 13482. The Blakey Bill contains many novel provisions. It also deals somewhat systematically with important aspects of the problem which had not been treated by previous studies or proposed bills. Because of the foregoing and because the Blakey Bill appears to be under serious consideration in the current session, it will be considered intensively in Part III below. In general, we accept the Bill's statement of the problems but we sharply disagree with many of its legislative solutions. In Part III we have set forth what we believe is sound in the Bill, together with the alternative solutions which we recommend.

PART III. THE ISSUES RAISED BY THE BLAKEY BILL

A. Background and underlying philosophy

The President's Commission, in the section of its report relating to organized crime, stated as follows the case for some wiretapping and eavesdropping by law enforcement officials:

"The great majority of law enforcement officials believe that the evidence necessary to bring criminal sanctions to bear consistently on the higher echelons of organized crime will not be obtained without the aid of electronic surveillance techniques . . .

"Members of the underworld, who have legitimate reason to fear that their meetings might be bugged or their telephones tapped, have continued to meet and to make relatively free use of the telephone—for communication is essential to the operation of any business enterprise. In legitimate business this is accomplished with written and oral exchanges. In organized crime enterprises, however, the possibility of loss or seizure of an incriminating document demands a minimum of written communication. Because of the varied character of organized criminal enterprises, the large numbers of persons employed in them, and frequently the distances separating elements of the organization, the telephone remains an essential vehicle for communication. While discussions of business matters are held on a face-to-face basis whenever possible, they are never conducted in the presence of strangers. Thus, the content of these conversations, including the planning of new illegal activity, and transmission of policy decisions or operating instructions for existing enterprises, cannot be detected. The extreme scrutiny to which potential members are subjected and the necessity for them to engage in criminal activity have precluded law enforcement infiltration of organized crime groups."

President's Commission, "The Challenge of Crime in a Free Society" (1967), p. 201; see also "Task Force Report: Organized Crime", pp. 17–19.

The Commission went on to say, however:

"In a democratic society privacy of communication is essential if citizens are to think and act creatively and constructively. Fear or suspicion that one's speech is being monitored by a stranger, even without the reality of such activity, can have a seriously inhibiting effect upon the willingness to voice critical and constructive ideas . . .

". . . It is presently impossible to estimate with any accuracy the volume of electronic surveillance conducted today. The Commission is impressed, however, with the opinions of knowledgeable persons that the incidence of electronic surveillance is already substantial and increasing at a rapid rate."

Id., at p. 202. See also Westin, "Science, Privacy and Freedom: Issues and Proposals for the 1970's", 66 Col. L. Rev. 1003 (1966).

It concluded:

"All members of the Commission believe that if authority to employ these techniques is granted, it must be granted only with stringent limitations. One form of detailed regulatory statute that has been suggested to the Commission is outlined in the appendix to the Commission's organized crime task force volume [the Blakey Bill]. All private use of electronic surveillance should be placed under rigid control, or it should be outlawed."

Id., at p. 203.

The detailed regulatory statute referred to by the Commission is the Blakey Bill.[3] The Commission did not adopt it but treated it as a useful example which might be discussed. We also find it useful for this purpose, perhaps the most useful bill to date as a springboard for discussion, but as noted above we accept only parts of the bill and suggest many revisions and additions.

B. Procedures for judicial control

Central to *Berger* and *Katz* is the concept, derived from Fourth Amendment cases relating to searches and seizures, that wiretapping and eavesdropping should be under the control of a judge or magistrate. The Blakey Bill, as it must, sets forth procedures for such judicial control. No less fundamental, in our view, are the principles that judicial approval should be governed by uniform standards, and that in this new and untested area we should proceed with great caution, resolving doubts generally in favor of restriction and privacy unless a strong case is made to the contrary. The Blakey Bill makes much less satisfactory provision for these latter principles.

Which Court

Under the Blakey Bill, Federal law enforcement officials may apply to a Federal court for an order permitting wiretapping or eavesdropping, and State officials may apply to a State court. The bill provides that where the order is obtained from a Federal court it shall be obtained from the Chief Judge of the United States District Court or such judge as the Chief Judge shall designate and from a limited number of other judges.[4] This presumably is to restrict judge-shopping, on the sound theory that one applying for an order would otherwise go to the judge most sympathetic to granting such orders. As to the State court, however, the bill provides that a judge of any court of general criminal jurisdiction in the State who is authorized by a statute of that State to grant such orders may do so.

We recommend that not only Federal but also State officials should be required to go through Federal courts, which should have exclusive jurisdiction to issue wiretapping and eavesdropping orders. Reliance on over 50 judicial systems militates against uniform standards for the granting of orders. It makes virtually impossible a workable system of quantitative controls on orders. It promotes judge-shopping and makes impossible central designation of judges, which the Bill provides only for Federal courts. State jurisdiction has little to commend it. The federalist concept of using States as laboratories would seem to have little application here, where the aim is uniform and tightly restricted control. We see no constitutional barrier to exclusive federal jurisdiction and no substantial arguments for concurrent jurisdiction.

Here is a major area of disagreement between the New York Bar Committee and the proponents of title III of S. 917. Not only does the bill provide for court orders by State judges, but also, judges with strictly local jurisdiction. We have not 51 jurisdictions but, very probably, several thousand.

Under S. 917, wiretapping and eavesdropping will run rampant, under a thin veil of legality.

Who May Apply

The Blakey Bill provides that applications for wiretapping or eavesdropping orders may be made by only a limited number of persons. At the Federal level these are the Attorney General of the United States or an Assistant Attorney General and at the State level they are the State Attorney General or the principal prosecuting attorney of a

[3] References hereafter to the Blakey Bill are to its designation, H.R. 13482, introduced by Rep. McDade.

[4] The Chief Judge of a United States Court of Appeals or such judge as he shall designate or the Chief Justice of the United States or such justice or judge as he shall designate.

political subdivision (such as a county or city District Attorney).

We agree that responsibility should be focused on those public officials who will be principally accountable to the courts and the public for their actions. Police and investigative agencies should not have the power to make such applications on their own. On the other hand, it seems anomalous to permit only very high Federal officials to apply, excluding such officials as United States Attorneys for entire States or Districts like the Southern District of New York, while permitting county district attorneys with substantially less responsibility to make applications. It appears essential, nevertheless, to permit county district attorneys to initiate applications with respect to matters which are their constitutional responsibility, and though this could lead to some abuses the answer is not to deny the power to initiate. This point underscores, however, the need for centralized and uniform judicial control, that is, exclusive federal jurisdiction.

We also would seek to reduce the anomaly referred to above by providing that the Attorney General may delegate to United States Attorneys the power to initiate applications.

At this point, Mr. President, I shall omit a section of the report entitled "Emergency Taps or Bugs Without Orders," as I understand that the final printed version of the report varies in substance from the last draft.

Taps and Bugs for Gathering Intelligence Only

The Blakey Bill states that none of its provisions shall be deemed to limit the power of the President to "obtain information by such means as he deems necessary to protect the United States from actual or potential attack by, or other hostile acts of a foreign power or to protect military, or other national security information against foreign intelligence activities." This provision exists independently of those providing for court orders to obtain evidence of such crimes as espionage. As stated above, and as stated by us in the past, we believe that all taps and bugs in the United States, including those of the C.I.A., should be brought under judicial control.

The suggestion has been made that taps and bugs without court order should be permitted for surveillance in the national security area and possibly also in the organized crime area, on the condition that the fruits may not be used in court. Most of us believe that such an argument misconceives the purpose behind the exclusionary rule, which is directed principally at providing a sanction against government overreaching and only secondarily at purifying court procedures, and would disapprove such a provision. Some of us believe however that such evidence should be excluded but there should be no other consequences.

Title III of S. 917 provides not only for court-free tapping and bugging in some cases—primarily "national security"—but also for the use of the "fruits" of the tap or bug if the tapping or bugging was "reasonable." This provides a truck-size loophole.

The Papers for the Application

The final aspect of this procedural discussion relates to the showing which the applying official must make in order to obtain an order. The Blakey Bill's requirements state only very general requirements. For example, the affidavit must contain "a full and complete statement of the facts and circumstances relied upon by the applicant".

In *Berger*, the Supreme Court referred to the failure of the New York statute which was there in issue to require that the papers "describe with particularity the conversations sought". 35 U.S.L.W. 4653 at 4654. The Court said that this failure "gives the officer a roving commission to seize any and all conversation . . . As with general warrants this leaves too much to the discretion of the officer executing the order". *Ibid.* The proposed bill should be modified accordingly.

The Bill further requires a showing that "normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous". We agree with the thought underlying this requirement, that is, that wiretapping and eavesdropping should not be used unless absolutely necessary. The Bill should not, however, leave open the possibility of satisfying this requirement by a boiler plate recital of the statutory language. It should provide for a description with particulars of the efforts that have been made to obtain evidence without wiretapping or eavesdropping and a reasoned justification of the need for using wiretapping and eavesdropping methods. The Bill should, on the other hand, contain a provision authorizing the district judge who is granting the wiretapping or eavesdropping order to seal so much of the supporting papers as makes disclosures that would endanger the lives of witnesses or seriously prejudice law enforcement. The seal would remain even through trial, so long as this situation remains, subject to in camera review of this portion of the papers by an appellate court.

C. Limitations on the amount of wiretapping and eavesdropping

No less fundamental to all discussions in this area is the notion that a balance must be struck which will minimize invasions of privacy and obtain maximum value for law enforcement from those limited invasions. Difficulties in striking that balance seem to have dominated debate. We are not satisfied with the methods which have been suggested for this purpose, nor with the new test suggested by Professor Blakey. We do believe, however, that a workable system can be devised, which is a compound of two proposed methods: lists of serious crimes and quantitative controls.

Lists of Crimes

Since at least the 1962 Department of Justice bill, draftsmen of wiretapping legislation have attempted principally to limit the frequency of wiretapping and eavesdropping interceptions by proscribing them except when used to obtain evidence of serious crimes, which are listed in the statute. The list contained in the 1962 bill included cases involving certain felonies affecting the national security—espionage, sabotage, treason, sedition, subversive activities and unauthorized disclosure of Atomic Energy information—and also cases of murder, kidnapping, extortion, bribery, transmission of gambling information, travel or transportation in aid of racketeering enterprises, any federal narcotic offenses, and conspiracy to commit any of the enumerated crimes. A similar list, plus counterfeiting, is contained in the McClellan Bill, and a similar list, plus several additions, such as bankruptcy fraud and obstruction of justice, is contained in the Blakey Bill.

A list of crimes, however, necessarily overgeneralizes, that is, not all instances of a given kind of crime are of equal seriousness. Indeed, the same rubric may cover events of major public concern and events which are relatively trivial. A case can be made, for example, that tapping should be permitted to obtain evidence of gambling, since the funds from gambling may be the life-blood of organized crime. It does not follow that tapping should be permitted for all gambling, including the corner bookie. Organized crime is increasingly involved in fraudulent bankruptcies, yet suspicion that a marginal businessman may be secreting assets would not impress most of us as creating an occasion which is sufficiently serious to warrant wiretapping or eavesdropping. The same excessive breadth applies to such crimes as obstruction of justice and counterfeiting, which are on the list in the Blakey Bill.

Blakey's New Test—Status of the Subject

Professor Blakey has attempted to define another test which is more explicitly directed at organized crime. This test can be described roughly as an attempt to define a person engaged in organized crime. A showing of such status would be enough to justify the issuance of a court order for wiretapping or bugging against that subject.

The proposed definition includes a showing that the subject is engaged in one of the crimes on a list like that of the 1962 Department of Justice Bill, as part of a continuing criminal activity, and has two or more close associates who are doing the same thing. In an earlier draft of the Bill, Professor Blakey also required a showing that the subject had been convicted of a felony involving moral turpitude. This latter has now been dropped. For orders based on proof of such a status the Bill also provides for a quota system, which would limit the number of orders against such persons and facilities used by them, though the number of orders allowed under Professor Blakey's quotas would be substantial.

The Blakey Bill also contains as an alternative, in which no quota is involved, a list of crimes, like the 1962 Department of Justice Bill. An order may issue on a showing that there is probable cause to believe that the subject is committing, has committed or is about to commit such a crime. The papers under either alternative must also make the showing previously referred to.

The most obvious problem posed by this scheme is that so long as an order can issue under the alternative method, on a showing that the subject is involved in a listed crime, few law enforcement officials will try to invoke a definition which includes this showing in its entirety plus a lot more.

In addition, the notion of guilt by association is repugnant, as is the notion that one should suffer special disabilities because of a prior conviction. Reliance on defining status, moreover, is a questionable method of law enforcement, even if a satisfactory definition could be drafted. We believe that law enforcement should be directed against unlawful acts, not against classes of persons. The quota system, finally, must be much more restrictive if it is to strike an appropriate balance.

Recommendation—The compound of a list and quantitative controls

The germ of a genuine alternative lies in Professor Blakey's suggestion of quotas for the number of official wire taps or bugs which can be outstanding at any one time. In the context of the Blakey Bill this provision seems to be of minimal assistance in restricting the number of orders, partly because it is to be applicable only as part of what we have called a redundant provision, and therefore not likely to be invoked, and partly because the quotas suggested seem to be too large.

We proposed, however, the following twofold system. For certain very serious crimes, murder, kidnapping and espionage, and for the foreign intelligence activities of our government described in the Blakey Bill, an unlimited number of taps and bugs would be permitted, subject to judicial review and the other safeguards under the bill.

We regard it as imperative, in this connection, that the list be limited to a few activities of very serious importance. Otherwise we believe a long "laundry list" of crimes would inevitably develop which would be so broad as to permit wholesale tapping and bugging. This we regard as simply incompatible with individual rights.

In order to afford law enforcement officers the flexibility to deal, in particular instances,

with crimes other than those enumerated above, we recommend that, in addition, a very small quota[5] of taps and bugs would be permitted, on a national basis, and under control of the Attorney General, for use in obtaining evidence of any other crime. The number of such interception orders permitted to be outstanding at any one time should be so small as to be confined to use for selected and highly important cases. Selection of the occasions would then be up to the Attorney General and his advisers who are familiar with the legitimate needs of law enforcement, subject to judicial review. Local authorities would have to obtain the agreement of the Attorney General in order to make application for a tap or bug in this second category. A certificate from the Attorney General showing compliance with this provision should be required as part of the papers in any application for an authorizing order. Thus a nationwide system of priorities could be established by the professionals, and interceptions for a minor cause would tend to be ruled out by the greater needs of organized crime cases.

The proposed system is concededly experimental but it appeals to us as a more direct method of striking the desired balance than any which has been suggested by the bills under review. In any event, we think the experimental nature of the legislation requires that it be subject to prescribed periodic review in its entirety and should have a specified term.[6]

Title III of S. 917 provides not only an open-ended "laundry list" for Federal, State and local police; it also has nothing in the way of a quantitative limitation. The sky is the limit, and hail big brother.

D. Privileged communications

The Blakey Bill for the first time confronts the problem of privileged communications which are intercepted by legal wiretapping or eavesdropping. Here the invasion of privacy, between attorney and client, physician and patient, priest and penitent, carries with it the potential for serious disruption of professional relationships. The uncertainty created by the possibility of unknown interceptions could be far-reaching.

The Blakey Bill bars orders where the subject is a lawyer, physician or a priest. This protection is more apparent than real, however, for it permits taps and bugs directed against confidential professional communications where the subject named is not the professional person, but his client or patient. The Bill also provides that taps or bugs may be granted for use in a lawyer's office, a physician's office or a confessional, on the theory, according to Professor Blakey, that such places should not be permitted to become sanctuaries for criminal activity. The evidence that professional offices pose genuine threats as potential headquarters for mobsters is however less than compelling.

The Bill does provide that in situations where a professional office is to be bugged or tapped a showing of "special need" must be made to the judge and that interceptions must be conducted so as to "minimize or eliminate" the interception of privileged communications. The Bill fails to define "special need", however, or to specify sanctions for failure to "minimize or eliminate" such interference with privileged communications. Given such ambiguity these protections appear to lack substance.

It must be emphasized that sound professional relationships, such as those between attorneys and clients, require a widespread public belief that confidences will be kept secret. Once the risk grows that secrets may be intercepted by outsiders this public belief in confidentiality may well become attenuated. As a result, communications could become guarded; professional persons could be seriously hampered in analyzing clients' problems and the damage to professional institutions could be considerable. The social price of such disruption is too high. This new legislation is experimental. We believe, therefore, that unless and until experience is gained which would substantiate the conclusions assumed by Professor Blakey as to professional sanctuaries, no tapping or bugging of professional offices should be allowed. Even if such proof is shown there may be other and preferable ways to deal with the problem as, for example, by professional discipline. We strongly disapprove any legislation which would permit interception of privileged communications.

Where applications for orders indicate that privileged communications may be intercepted, the court should direct the agents not to make such interceptions, when at all possible; in other cases provision should be made to erase those portions of any tapes which contain interceptions of privileged communications. Orders should not be granted for use in a lawyer's or doctor's office, or on their telephones, or for a confessional. On the other hand, we see no reason to bar orders with respect to premises listed in, say, a lawyer's name, where the court can be shown that it is not a place used as a professional office.

E. Other limitations on time and place

Time

In *Berger* the Supreme Court emphasized the necessity of limiting the time during which an order for electronic surveillance (and renewals thereof) would be valid. The Court analogized an order valid for long periods of time to the constitutionally proscribed general warrant, under which an unlimited search and seizure could be made.

In *Berger* the statute which was condemned had permitted orders valid for two months, which would be renewable, presumably for periods of two months each. This time period was held to be too long. The Blakey Bill provides for 30 day orders, renewable for periods of 30 days. The limitations on time must be viewed together with the provisions for limiting interceptions to those communications which can be described with particularity. The Blakey Bill's provision would still seem to be too long under *Berger*, possibly unconstitutional, and in any event undesirable. The initial period of validity should be quite short, perhaps a week at most. Extensions, of similar duration, should be granted only upon a renewed showing of probable cause, on new motion papers. It would also seem that papers for a renewal order should set forth some evidence beyond that contained in the original papers, particularly since the anticipated conversations to be intercepted should be described with particularity. On the other hand, giving the practical exigencies in obtaining renewal orders from busy judges, and the problem that is presented in the necessity to remove a bug or tap when the order has not been renewed, we would not object to renewals on oral application, within the court's discretion, to be followed within 48 hours by the filing of proper supporting papers. The Blakey Bill does not limit the number of extension orders which may be obtained. We would favor some limitation as to the maximum duration of a single court approved tap or bug.

The Home

The Blakey Bill draws no distinction between homes and other places, so far as wiretapping and bugging are concerned. We do not agree. There is of course a possibility that homes will be used for illegal activities, such as gambling activities, and it may be noted that the famous Apalachin meeting took place in a home. We are prepared to accept the idea of wiretaps on home telephones. Bugs in homes go too far, however. There must be some sanctuary where one can think and speak without fear. We would ban all electronic bugging in homes.

Public Telephones

Taps and bugs on public phones, as in the *Katz* case, are permitted under the Blakey Bill provided that agents avoid unnecessary overhearing of other parties' conversations and show a "special need". The latter concept, as indicated above, appears to be meaningless and we would prefer instead to rely on the requirement that orders be limited precisely to conversations of named persons and only to those. Thus automatic monitoring equipment would seem to be ruled out for public phones. Beyond this, public phones would not seem to be different from other public places.

F. Disclosure

A large part of the problem involves the question of defining the extent of permissible disclosure of the intercepted communication, to whom, under what circumstances and for what purpose. The issues may be discussed in three parts:

1. The inventory, or disclosure to subjects that wiretapping or eavesdropping has taken place.
2. Disclosure within the government.
3. Disclosure to the defense before trial.

1. *The Inventory, or Disclosure to Subjects that Wiretapping or Eavesdropping Has Taken Place:* The Blakey Bill provides that within ninety days after termination of the wiretapping or eavesdropping order the subject must be told that such an order has been entered, the times it was in effect, and whether or not any communications were intercepted. This is referred to in the Bill as service of the inventory. The Bill further provides that such service may be postponed by the judge on a showing of good cause.

This provision, though unique in this area, may be derived from an analogous procedure in the area of searches and seizures, where the inventory functions as a receipt for what was taken. The principal significance of the inventory in this area, however, is that it lifts the secrecy from the tap or bug. Presumably the intention is thus to reduce the uncertainty which one might have as to whether or not he has been subjected to electronic surveillance.

We approve of this provision, and believe it should be a part of the legislative scheme recommended by this Report, except in the case of foreign intelligence activities of our government where the need for continued secrecy seems overriding.

The Bill stops short of requiring service on the subject of the underlying papers which supported the application for an order. Under another provision of the Bill these papers are to be sealed, and thus the subject would seem to be left without access to them, unless they are to be used against him in a criminal proceeding.

The Bill provides elsewhere substantial civil remedies for persons who are subjected wrongfully to wiretapping or electronic eavesdropping, though good faith reliance on an order is a defense. It is hard to see how these remedies can be invoked in the generality of cases when the subject cannot see the papers relied on for the order. The papers might contain false affidavits, for example, yet the subject would have no way of testing this. While perhaps he could obtain the papers by starting a lawsuit and moving for discovery of the papers submitted

[5] The specification of an exact number poses great difficulty and would require consideration as to specific law enforcement needs and privacy problems; the range which most of us have in mind, however, is 100 or fewer taps or bugs to be outstanding at any one time throughout the nation. Any number, of course, must to some extent be arbitrary.

[6] *E.g.*, the Blakey Bill provides for an independent study of its operations within one year prior to its termination, and for automatic prospective termination of the bill's provisions eight years after enactment.

to the court, it seems undesirable to compel subjects to start perhaps groundless suits for this purpose. At the same time it is hard to see how the subjects lawyer could counsel him to take on faith the correctness of the papers submitted to the court.

If the underlying papers are disclosed to subjects within 90 days, nevertheless, such disclosure may destroy an entire investigation prematurely, since the papers may expose too much too soon, such as the identity and activities of informants, the extent of official information, surveillance activities and the like. While service of the inventory, as proposed, might tend to have the same effect, there the disclosure would reveal fewer particulars.

We believe that the compromise struck by the Blakey Bill serves the needs neither of privacy nor of law enforcement. We would prefer an explicit provision that: (a) the underlying papers should be served with the inventory except (b) upon a showing by law enforcement officials that service of either the inventory or the underlying papers will prematurely terminate an investigation the court may postpone service of either, the inventory for a period not to exceed six months and the underlying papers for a period not to exceed one year. Some of us are of the opinion that the tapes or transcripts of intercepted communications should also be served with the inventory.

Another problem with the proposed bill is that the inventory is to be served only on persons who are subjects of the order. If A, under an order, talks with B, only A is told about the interception. B's rights may have been violated but he lacks redress. B should probably also be served with the inventory. On the other hand, if for example, A, a businessman, talks with his customers, and the latter are served with papers showing that A is being bugged, the damage to confidence in A and to A's reputation in general may damage A unjustly. In this case it would seem that the customers should not be served with the inventory.

No solution seems wholly satisfactory, but we believe that the courts should have discretion to require service of the inventory on persons other than the subject of the initial order. Determinations as to who should be served would be best made on a case by case basis.

2. *Disclosure within the Government*: Broad disclosure of intercepted communications within the government runs against the policy of keeping the invasion of privacy to a minimum and also against the policy of using such interceptions for highly important purposes. Despite these basic considerations, the Blakey Bill permits such broad disclosure. We strongly disapprove these provisions of the Bill.

Professor Blakey, in his original paper for the President's Commission, stated that intercepted material should not be disclosed in Congressional hearings. His original draft further limited disclosure within the government by providing that the intercepting official "may disclose such contents *to another investigative or law enforcement officer* to the extent that such disclosure is appropriate to the proper performance of the official duties of the officers *making and receiving the disclosure*". (Emphasis added.)

The present draft opens very large holes in this formula and makes it possible to broadcast widely the results of bugs or taps. It permits disclosure *"to any person* to the extent that such disclosure is appropriate to the proper performance of the official duties of the officers *making such disclosure*". (Emphasis added.) The change introduced by the italicized sections turns a restrictive policy, perhaps itself too loose, into an open door. We strongly disapprove this change.

Some find the original formula also unsatisfactory. They believe that disclosure should be confined to persons officially engaged in investigating the offense for which the original order was issued and, where relevant, as part of judicial proceedings, with perhaps an exception for official need upon explicit judicial approval on a new application.

3. *Disclosure Before Trial:* The Bill provides that the contents of a communication intercepted by a court approved wiretap or bug may not be used in evidence at a trial unless, at a time not less than ten days before the trial, the defendant receives a copy of the court order and the underlying papers. He can then move to suppress. We are generally in agreement with this procedure.

Perhaps a defendant can also move to discover the contents of the intercepted communications, under Rule 16 of the Federal Rules of Criminal Procedure. This Rule gives the courts discretion to disclose to a defendant his statements which are in the possession of the government. Tapped or bugged statements may be within the purview of this Rule. Some of us would make disclosure of tapper or bugged statements mandatory if such legislation as that discussed above is enacted. In view of the possible applicability of Rule 16 or some equivalent disclosing the interception only 10 days before trial would seem to leave the defendant too little time to move thereunder and use the results of his motion. In general the defendant should have time to make motions other than suppression motions resulting from disclosure, and he should also have time to check out the facts and use the results of discovery to prepare properly for trial.

G. Certain other provisions of the Blakey bill

Other provisions of this Bill raises general problems of constitutional power and the like which will be discussed in detail below. Certain others, including relatively novel ones, require less extensive treatment.

Thus, we are in agreement with the Bill's provision for civil remedies, including liquidated damages, punitive damages and counsel fees, in favor of persons whose communications are intercepted, disclosed or used in violation of the Bill's requirements. The Bill provides that good faith reliance on a court order shall be a complete defense and this we also approve, to the end that law enforcement officials should not be harassed or intimidated.

If an intercepted communication is suppressed, the Bill gives the Government the right to appeal at that time. This would seem necessary to avoid destruction of proper prosecutions by an error in law at the trial court level, and it is not likely to interfere significantly with countervailing policies against interlocutory appeals.

The Bill provides furthermore that immunity may be given to witnesses who are to give evidence of violations of the laws relating to electronic eavesdropping and wiretapping. Such offenses are serious and we approve this provision, which would expedite enforcement of the criminal penalties under the Bill.

PART IV. WIRETAPPING AND EAVESDROPPING BY PRIVATE PERSONS AND WITH THE CONSENT OF A PARTY

Consent taps and bugs by law enforcement officials

Under both the Blakey Bill and the Long Bill, no bar is placed on wiretapping or eavesdropping when one party to the communications consents.[7] This is true whether the consenting party be a law enforcement official or a private party.

[7] The term "intercept" means the aural acquisition of the contents of any wire or oral communication through the use of any intercepting device or by any person other than the sender or receiver of such communication or a person given prior authority by the sender or receiver to intercept such communication.

We recommend, however, that consent eavesdropping and wiretapping by law enforcement officials should be brought within the framework of the court order system, with certain exceptions. We have proposed above that official interceptions, where consent is absent, be permitted in unlimited number in connection with certain very serious crimes as well as in the foreign intelligence activities of the United States Government and in very limited number for use in obtaining evidence of any other crime, with the express approval of the Attorney General. We propose that where law enforcement officials seek court approval to wiretap or eavesdrop with the consent of a party there be no limitation as to the nature of the crime being investigated or the number of such orders which may issue. Some of us also think that no limitations should be imposed on the place of consent interceptions. The only requirement would be the authorization of the appropriate Federal or State law enforcement official and the issuance of a Federal court order.

In addition, some of us think that if consent interceptions are brought within the framework of the court order system, provision should be made for the emergency where consent is present but the exigencies of the situation are such that delay in seeking a court order would make the interception useless. In such an "emergency" situation they would not object to the consent interception so long as within 48 hours thereafter a court order is obtained approving the interception as if it had been applied for in the normal manner. Finally, some of us also think that in the consent situation service of the inventory upon the subject of the order be eliminated. However, should a trial ensue, the pretrial disclosure provisions would be applicable.

This proposal recognizes that an individual's privacy is invaded even when the party to whom he speaks has consented to the recording, and it sanctions such an interception only when a neutral magistrate determines that the invasion is necessary. It tends to eliminate the constitutional uncertainties surrounding the consent interceptions area, which have been discussed above without sacrificing the effectiveness of this legitimate investigative tool for law enforcement.

Tapping and bugging by private parties

The Blakey Bill, as well as the Long Bill, imposes a blanket ban on all wiretapping and eavesdropping by private parties except those interceptions made with the consent of one of the parties to the communication. Violations are punishable by criminal sanctions. If, as we suggest, it is proper to include official wiretapping and eavesdropping upon consent under the court order system, then there is little to be said for a statute which permits unrestricted consent interceptions in the private sector. There the social need is attenuated and the potential invasion of privacy great.

The usual justification for recording of conversations by a private party is that each party takes the risk that the other will repeat what has been said and hence should also take the risk that the other party will possess the means to repeat it accurately, either in court or to another private person. The contrary position is that the essence of privacy is the power to limit the extent of one's communications and that the risk of recording or transmittal is not one we should ask persons to bear in a free society. The first theory treats the risk of party monitoring like the risks that are inherent in any non-privileged conversation; the latter theory treats that risk like the risk of monitoring by outsiders.

The argument against consent eavesdropping has been put persuasively by Professor Westin, who assumes for this argument that eavesdropping would otherwise be limited

to obtaining evidence of serious offenses on authorization from the courts.

"This (exception) has been the basic charter for private detective taps and bugs, for 'owner' eavesdropping on facilities that are used by members of the public, and for much free-lance police eavesdropping. Allowing eavesdropping with the consent of one party would destroy the statutory plan of limiting the offenses for which eavesdropping by device can be used and insisting upon a court order process. And as technology enables every man to carry his microminiaturized recorder everywhere he goes and allows every room to be monitored surreptitiously by built-in equipment permitting eavesdropping with the consent of one party would be to sanction a means of reproducing conversation that could choke off much vital social exchange." Westin, *Science, Privacy and Freedom: Issues and Proposals for the 1970's*, 66 Col. L. Rev. 1205, 1226 (November 1966). See also, Greenawalt, Col. L. Rev.

It is significant that the Federal Communications Commission has rejected the consent exception for its rule banning eavesdropping by use of radio devices The F.C.C. reversed its original position after receiving a memorandum from the Special Committee on Science and Law of the New York City Bar Association. The Commission said:

"9. Objection was made by the Association to that provision of the proposed rules which would make the prohibition against eavesdropping inapplicable where the use of the device is authorized by one or more of the parties engaging in the conversation. It was contended that this approach fails to recognize a distinction between the risk that a party to a conversation may divulge what he remembers from the conversation and may be believed by others, and the risk that a party to a conversation will use a radio device to overhear and record the conversation verbatim, or authorize another to so overhear or record it. Doubt was expressed as to whether most persons assume, or should assume, the risk that their conversations are being overheard or recorded by the use of such devices. The Association also expressed the view that the real significance of this provision of the proposed rules would be to enlarge the area of permitted eavesdropping beyond that likely to be condoned by the public or by the courts.

"10. Our proposal was based upon the tentative view, set forth in paragraph 6 of the Notice of Proposed Rule Making, that anyone who engages in conversation with others must assume the risk that anything he says may be divulged without his knowledge by any other party to the conversation. However, upon further consideration we have decided that the objections to this view are well founded and that we should not sanction the unannounced use of listening or recording devices merely because one party to any otherwise private conversation is aware that the conversation is in fact no longer private.

"11. The right of privacy is precious and should not be sacrificed to the eavesdropper's needs without compelling reason. We cannot find such reason here, subject to the single exception made in paragraph 13, *infra*, for law enforcement officers operating under lawful authority. *We agree that the ordinary risk of being overheard is converted into another risk entirely when the electronic device is made the instrument of the intruder. Coupled to a recording device, this new eavesdropping tool puts upon the speaker a risk he has not deliberately assumed, and goes far toward making private conversation impossible. We do not believe the assumption of such a risk should be made the basis of our rules.* We are commanded by the Communications Act to 'encourage the larger and more effective use of radio in the public interest,' Section 303(g). Upon reflection, we do not believe it to be consistent with the public interest to permit this new product of man's ingenuity to destroy our traditional right to privacy.'" (Emphasis added.)

For these cogent reasons, we disapprove the blanket consent exception in the private sector. We see no social justification for consent wiretapping by private parties. However, we do recognize that there is a question whether there may not be some classes of conversation which one of the parties should be permitted to record secretly, and there is also a question as to the sanctions which are appropriate in this area. One thinks of the businessman who tells his secretary to listen to his conversation on an extension phone in order to have a witness to what is said. One also thinks of the situation of a criminal defendant faced with a shakedown attempt by one he knows to be a prospective witness against him, who requires self-protection. Though a full discussion of this area is beyond the scope of this report, a number of factors may be relevant in specifying more limited exceptions. These would include (1) the social importance of the recording or eavesdropping, (2) the relationship between the parties, (3) the circumstances under which the recording or eavesdropping is to take place, and (4) the collateral problems arising from prohibition of the kind of eavesdropping in question. See *Greenawalt*, Col. L. Rev. Our suggestion is that the sanction against private consent recording or eavesdropping be confined to tort remedies and exclusion of the use of information so obtained in any judicial proceeding by the procurer of the recording. The statutory standard could then be rather generally phrased so as to permit development by the courts on a case-by-case basis.

We fully approve as a general principle the provisions in both the Blakey Bill and the Long Bill that preclude all third-party wiretapping and eavesdropping in the private sector. Its all too common use as a means of gathering evidence in divorce proceedings and in obtaining information in competitive commercial situations should be condemned. While we believe that the procurer of such an interception should be subject to the criminal as well as the civil sanctions proposed in the Blakey Bill, we hesitate to treat as severely a person who "uses" information knowing it to have been obtained by means of an illegal interception. As against the knowing user, we would suggest that the aggrieved party be confined to a tort remedy. There may be some few instances in which third party interceptions serve a socially useful purpose, such as in the case of a social scientist seeking empirical data, but we do not think it is feasible to carve out an exception to cover these limited situations. Finally, no information obtained as a result of a third-party interception should be admitted in evidence in any court proceeding except in the case of a prosecution or civil suit based upon a violation of the laws relating to wiretapping and eavesdropping.

PART V. FEDERAL POWER TO CONTROL WIRETAPPING EAVESDROPPING AND DEVICES FOR SUCH USE

Though Congress undoubtedly has power to control wiretapping under the commerce power, the extent of Federal power over eavesdropping is less settled. *Berger* and *Katz*, dealing as they do with the requirements of the Fourteeenth Amendment, have nothing to say directly about this question.

There has not been doubt that legislative power to control exists in the area of wiretapping, under the commerce clause. Indeed, it is hard to see how there could be an intrastate wire communication which in no way "affected commerce". See *Weiss* v. *United States* (Cite). As to eavesdropping, the Blakey Bill forbids interception of oral communication without regard to whether they are commerce-related. Possession of devices primarily useful for interception (see Part —, infra) is forbidden, however, only if the devices or components have travelled in commerce, and manufacture and distribution are also reached only when there is a commerce connection.

Both the commerce power and the enforcement clause of the Fourteenth Amendment as intercepted by the Supreme Court indicate that Congress may reach "local" manufacturing, sale, and use. Given the easy transportability of most wiretapping and eavesdropping devices and the impossibility of preventing someone from carrying them across state lines, a prohibition on transportation across state lines would be greatly enhanced by a prohibition of manufacturing and sale for local purposes. Insofar as use is concerned, both convenience of enforcement against commerce-connected uses and equal treatment of persons engaging in virtually identical activities would be promoted by reaching local use. Perhaps even more important, any general local use of devices might affect the ways in which persons carry on interstate business, since both those overheard and those doing the overhearing may have difficulty grasping the subtle distinctions between covered and uncovered uses.

The Supreme Court has been remarkably permissive in the last thirty years in sustaining Congressional exercises of power claimed to rest on the commerce clause. Among the more relevant cases are *Wickard* v. *Filburn*, 317 U.S. 111 (1942) and *Katzenbach* v. *McClung*, 379 U.S. 294 (1964). They establish that the particular action reached need not itself affect commerce so long as the cumulative impact of that and similar actions would produce an effect on commerce. It is true that the suggested exercise of the commerce power with regard to eavesdropping is analytically distinguishable, since it rests upon the need to achieve effective enforcement in regard to admittedly commerce-related situations and/or upon effects on commerce that are more speculative than those involved in *Wickard* and *McClung*, but it is difficult to believe that these differences would lead to a contrary result. Given the Supreme Court's general hesitancy to strike down any Congressional legislation on grounds of Federalism, the obvious national interest in meaningful eavesdropping rules, and the recognized desirability of legislative action (deriving both from the Court's difficulty in drawing appropriate constitutional lines and the patent inadequacy of the exclusionary rule as a deterrent of private activity), it is almost certain that any congressional attempt to deal comprehensively with the eavesdropping problem would be sustained against a claim that the limits of federal power had been exceeded.

Analysis of the Supreme Court's interpretation of Section 5 of the Fourteenth Amendment suggests the same conclusion under that Constitutional provision.

The Voting Rights Act of 1965 prohibited states from requiring literacy in English, as a condition for voting, of persons educated in an American flag school. *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966), sustained that exercise of Congressional power. It did so without reaching the question whether the New York English literacy requirement violated the equal protection clause of the Fourteenth Amendment. The opinion conceded considerable discretion to Congress to determine the bounds of the equal protection clause. Congress might have determined that the New York constitutional provision resulted largely from prejudice or that the state interest asserted to support its existence did not justify denial of a right as precious as the right to vote. The Court's role was merely to "perceive a basis upon which Congress might predicate a judgment" that the

New York requirement was "an invidious discrimination in violation of the equal protection clause." In an alternative rationale, the Court held that Congress could forbid a perfectly constitutional state requirement (English literacy for voting) if it determined that this requirement led to other constitutional violations (inequality of government services for residents not speaking English). In *United States* v. *Guest*, 383 U.S. 745 (1966), six members of the Court make clear their willingness to sustain federal statutes reaching private action that interferes with Fourteenth Amendment rights.

Morgan's relevance to eavesdropping is that reasonable men could conclude that Congressional action is needed to protect against instances of bugging that violate the Fourth Amendment. The Court can "perceive a basis" on which Congress might make that judgment and thus would sustain a prohibition of eavesdropping by law enforcement officers. The notion that the Court would strike down a *law against* eavesdropping by State law enforcement officers as an impermissible extension of Federal power is highly implausible.

The argument that the Fourteenth Amendment supports prohibition of local private use is less obvious. No one is prevented from using a State facility on an equal basis or enjoying other benefits from the State. A theory can be advanced that Congress has the power to legislate against private interference with freedom of expression or a "right to privacy". The prohibition may also be supportable as a Congressional exercise of power, under Section 5 of the Fourteenth Amendment, to give particular content to the national citizenship conferred by the first sentence of that Amendment.[8]

In any event, it seems clear, however, that local manufacture and sale to private persons and private use make more likely prohibited law enforcement use. If devices are generally available and used, police officers will be more likely to use them. The police may also, in ways not easily discerned, arrange for private detectives and others to spy for them, thus avoiding the mandate against police use. Thus, as an aspect of effective enforcement of the general prohibition on official use under the Fourteenth Amendment, Congress can reach actions with regard to eavesdropping devices that do not involve State authorities.

If, as has been suggested, Congress has the power to pass comprehensive legislation in regard to eavesdropping, and need not limit itself to "commerce-related" situations, it would follow that it can decide to permit eavesdropping only upon the issuance of a federal court order.

In my view, Congress not only has the legal right to deny eavesdropping to state and local officials but the duty, as a matter of sound public policy, to so restrict electronic eavesdropping. This is one of the main thrusts of S. 928, the administration's bill.

PART VI. PROHIBITIONS ON MANUFACTURE AND DISTRIBUTION OF EAVESDROPPING DEVICES

Both the Blakey Bill and the Long Bill prohibit persons from sending or carrying in interstate or foreign commerce or sending in the mail "any electronic, mechanical or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of wire interception or eavesdropping". It also forbids manufacturing or assembling such devices if they or their components "ha(ve) or will be" sent through the mails or in commerce. A similar prohibition is placed on advertisements to be sent in commerce of such devices, as well as on advertisements of other devices designed to promote their use for wire interception or eavesdropping.

There are several problems with these provisions. The standard of "primarily useful" is too vague for a criminal statute. The inherent vagueness of the phrase is intensified by the fact that discovery of new uses for existing devices may shift them in or out of that category. This vagueness is not cured by the requirements that the sender "know or have reason to know" the nature of the device; "having reason to know" is itself a rather vague criterion.

It is doubtful, moreover, if "primarily useful" is even a standard that sensibly balances competing social demands. The object is, of course, to preserve the availability of devices with legitimate uses and to restrict the availability of those used for antisocial purposes. But to make a sensible judgment, one needs to know how easily the legitimate uses can be filled by other devices. Contrast the following two hypothetical devices: Device A is useful primarily for eavesdropping; it has one legitimate but limited use of great social value that cannot be filled by any other device. Device B is primarily useful for legitimate uses but can also be used for eavesdropping; other devices at the same price can perform all B's socially useful functions, but cannot be used for eavesdropping. Society has a greater interest in preserving the availability of Device A than Device B, although Device A is useful primarily for eavesdropping and Device B is not. Plainly, no devices are likely to fit such simple analysis, but this example does indicate that the social judgment involved is more complicated than that implied by the "primarily useful" formula.

Added to this is the fact that these prohibitions on manufacture work at cross purposes with the proposed consent and national security exceptions. If some eavesdropping is to be permitted, it makes little sense to compel intrastate manufacture and distribution of the necessary devices.

We do not believe a shorthand formula that adequately balances competing social interests can be framed in the context of a criminal statute. Certainly the bill as written does not contain one. One alternative would be to drop restrictions on manufacture, sale and advertising and attack only improper use. If improper uses were easy to detect and one could be sanguine about vigorous law enforcement in this area, that solution would make sense; but we fear that improper use is an inevitable consequence of widespread availability of eavesdropping devices. Some regulation on manufacture and sale is called for as a supplement to use prohibitions.

An administrative body, such as the F.C.C. or the F.T.C., would be far better suited than Congress to catalogue existing devices and assess the extent to which they fill legitimate social needs. It would be flexible enough to reexamine devices as new uses are discovered and to assess new devices as they are developed. Without meaning to prejudge the determinations of such a body, we would suggest that devices would fall into three broad categories. Some would be almost solely of use for wire interception or eavesdropping; the manufacture and sale of these would be prohibited except under arrangement with law enforcement agencies authorized to use devices for that purpose, if any agencies are so authorized. Some would be so commonly used for legitimate purposes that they would be generally available; only improper advertising and use would be proscribed. Some would be highly useful for eavesdropping and of limited but significant usefulness for legitimate purposes. These could be manufactured and distributed to private persons under some sort of licensing scheme and upon a showing of need for the device.

CONCLUSION

Difficult as are the problems in reaching agreement on legislation, legislation must now be enacted. Experimental laws controlling wiretapping and eavesdropping, however imperfect, are preferable to the present situation. Such legislation should direct itself to the complexities of the subject and should avoid overly simple formulas. We disapprove the Long Bill as a legislative proposal which does not meet these requirements.

The draft statute prepared by Professor Blakey for the President's Commission, which after revision has been introduced in the current session of Congress by Rep. McDade as H.R. 13482, raises the issues better than other proposals now before Congress. Many of its solutions are unacceptable to us, but with the modifications which we have suggested above we believe that Professor Blakey's basic format can be used for a bill that would be workable. We have outlined above our recommendations as to the major features of such a Bill, stressing the necessity of regarding these recommendations as integral parts of a single legislative scheme. We urge the enactment of such a Bill.

Mr. President, that is the end of the report of the New York City Bar Association. If it proves one thing, it is that we are not ready to enact legislation on this important subject.

The report suggests flaws in S. 928, my bill.

It suggests flaws in the Blakey bill.

The provisions of title III of S. 917 come even further from meeting its requirements.

What is needed is to have this proposed legislation recommitted to the Committee on the Judiciary and for that com-

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[8] "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." U.S. Const., amend. XIV, § 1. As noted by the Court in the *Slaughter-House Cases*, 83 U.S. (16 Wall.) 36, 72–73 (1873), this declaration of citizenship was intended specifically to overturn the *Dred Scott* decision, which had held that a person of African descent, whether or not a slave, was not a citizen of a state or of the United States, as well to reverse the view, theretofore widely adhered to, that United States citizenship arose, if at all, only by reason of state citizenship.

"It seems not to have been questioned that, whatever the incidents of national citizenship may be, they are a proper subject of legislation under Section 5, whether directed against private individuals or states." See *United States* v. *Cruikshank*, 92 U.S. 542, 552–53 (1876) (dictum that right to discuss public affairs or petition for redress of grievances is incident of national citizenship which Congress can protect against private interference). A restrictive view was taken by the Court of the privileges and immunities of national citizenship in the *Slaughter-House Cases*, 83 U.S. (16 Wall.) 36 (1872), but more recent decisions, notably *Colgate* v. *Harvey*, 296 U.S. 404 (1935), and the concurring opinions of Justices Douglas and Jackson (representing the views of four members of the Court) in *Edwards* v. *California*, 314 U.S. 160, 177, 181 (1941), suggest a somewhat broader view of the content of national citizenship. See *United States* v. *Guest*, 383 U.S. 745, 757–59 (1966); see also the Department of Justice Memorandum submitted to Congress in 1967 suggesting this approach as one of the bases of Fourteenth Amendment support for open housing legislation: ". . . it is arguable that the right to be free of racial discrimination in the purchase and rental of residential property—partially grounded as it is in the Thirteenth Amendment—is one of those privileges of national citizenship which Congress may protect against wholly private action." See *Slaughter-House Cases*, *supra*, 16 Wall. at 80; *Civil Rights Cases*, *supra*, 109 U.S. at 20, 23; *Clyatt* v. *United States*, 197 U.S. 207, 216–218. CONGRESSIONAL RECORD, vol. 112, pt. 12, p. 16073.

mittee to establish an ad hoc subcommittee for the sole purpose of reaching a workable solution to the many unsolved problems encompassed by this legislation.

I urge the proponents of S. 917 to consider this possible solution.

Mr. President, to speak more specifically to the amendment now pending, No. 734, as presently drafted, section 2518, paragraph (d), of S. 917, provides that within a reasonable time but not later than 90 days after the filing of an application for a wiretap or eavesdrop order, the issuing judge must provide the persons named in the order, or the application for an order, an "inventory." This inventory is to include the following information: First, the fact of the entry of the order or the application; second, the date of the entry and the period of authorized, approved, or disapproved interception, or the denial of the application; and, third, the fact that during the period wire or oral communications were or were not intercepted.

Paragraph (d) further provides that—

On an *ex parte* showing of good cause to a judge of competent jurisdiction the serving of the inventory required by this subsection may be postponed.

Amendment No. 734 would delete this language, which appears on lines 13, 14, and 15 on page 73 of the bill.

The effect of this deletion would be that the subjects of a wiretap or eavesdrop would be to give notice within a period of 90 days after the filing of the application for the wiretap.

Let me point out that amendment No. 732, which may be offered later, would lower the time to 30 days.

The committee report accompanying S. 917, at page 105, cites examples of where the service of inventory may be postponed. According to the report, postponement would be justified where, for example, the interception is discontinued at one location because the subject moves, but is later reestablished at the subject's new location. Another case where postponement of service would be justified would occur where the investigation itself is still in progress, even though interception is terminated at any one place. The inventory due at the first location could be postponed until the investigation is completed, according to the Committee Report.

Section 2518(d), as presently drafted, gives judges an almost unlimited power. The report states that through this provision for notice all authorized interception must eventually become known to the subject of the interception. I think it is quite impossible to say this when the bill in actuality provides that judges may postpone the notification indefinitely.

Apparently the drafters of this bill meant to provide for a procedure somewhat similar to the receipt that is given to a person whose goods are seized pursuant to a search warrant. If we are going to use that analogy, I suggest that we make our procedures conform more closely to it.

Rule 41(d) of the Federal Rules of Criminal Procedure provide that any officer taking property from a person pursuant to a warrant must give the person a copy of the warrant and a receipt for the property taken. This receipt is given when the property is taken. If the person whose property is seized is not present the copy of the warrant and receipt are left at the place. In any event, it is obvious that the procedures provide that the receipt is received by the person at the same time as the seizure is made.

I do not think it wise that we depart radically from this time-honored procedure. As you know, I am opposed in principle to the establishment of a court-order system of wiretapping and eavesdropping. However, if we are going to adopt such a system I think we should make it conform to the traditional search and seizure procedures.

Those procedures call for a speedy notice to the person whose goods are seized, telling him in detail what goods have been taken. I think the person whose conversations have been intercepted, whose privacy has been invaded, should be promptly apprised of that fact. It seems unjust to me to postpone indefinitely the service of an inventory on that person.

It should be noted that this amendment would not affect wiretaps and eavesdrops which fall within the national security area. Surveillance in this area falls within section 2511 of the bill, and it is not governed by the court-order provisions. It is reasonable to refrain from giving notice of a wiretap to the subject of that tap in the case of foreign intelligence activities. Here the need for continued secrecy seems overriding.

But in all other cases, it seems to me to be unreasonable to postpone indefinitely the service of notice to the party who is the subject of the wiretap. In an area so fraught with dangers to our liberties, especially our right of privacy, I think we must hold our police officers and judges to a strict observance of a 30-day rule. It is a 90-day rule at the present time.

Thus, Mr. President, it seems to me that this is one of the sections of the bill that provides a loophole to permit officers to wiretap wherever they wanted a court order, and if they did find something or did not, a person whose right of privacy was perhaps being violated, or whose conversation was being overheard, would have no knowledge of it.

As I point out, we make it a definite rule in search and seizure. We have been careful, over the years, that they must know definitely what was seized, but here we give them 90 days to permit a judge to permit it indefinitely, which is a complete and improper change and at variance with the court procedures we have set up over the years.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and would suggest to aides and attachés that they get in touch with their Senators and get them into the Chamber for a yea-and-nay vote.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. McCLELLAN. Mr. President, I have listened to the hour-long argument for this amendment. I have several comments to make. First, the distinguished Senator from Missouri relies heavily on the report of the Association of the Bar of the City of New York. I would like to make it very clear that this report deals primarily with another bill, the Blakey bill introduced in the House. During the redrafting of title III of the bill, following the Katz decision, the committee staff was in touch with and conferred with members of the New York Bar Association Committee. We adopted a number of recommendations the committee was considering and incorporated them in title III. Some of the recommendations we rejected and, I might add, for good reason.

Second, it is a strange argument to me that while in national security cases under the Senator's so-called Right of Privacy Act no warrant at all is needed, or any probable cause required, but the President is permitted merely to order a surveillance. It is not even necessary to get a renewal order, and the investigators can go from place to place. And no notice or inventory must be filed. But in the case of organized crime under title III—Murder, Inc., a dope ring importing dope into this country, polluting the stream of youth and other victims with the poison and affliction of becoming a dope addict—we have to protect the man at the top, the crook, the man who is profiteering off human misery. We have to give him every protection and not let law enforcement officers secure a postponement of the filing of the inventory.

Mr. President, in the bill we provide requirements for a postponing, on a showing of good cause. This is an adequate standard. It has commended itself to others. New York has had more experience with wiretapping law than has any other State of the Union. The legislature of the State of New York are familiar with the Bar Association's recommendations. Yet, in the last few days the General Assembly of New York passed a bill to amend the code of criminal procedure, the penal law, and the civil practice and rules, in relation to eavesdropping warrants. In the bill, which has now passed and which is on the desk of the Governor for signature, I find this language with respect to postponement:

On a showing of exigent circumstances to the issuing justice, the serving of the notice required by this section may be postponed by order of the justice for a reasonable period of time. Renewals of an order of postponement may be obtained on a new showing of exigent circumstances.

The New York bill defines "exigent circumstances" to mean "conditions requiring the preservation of secrecy, and whereby there is a reasonable likelihood that a continuing investigation would be thwarted by alerting any of the persons subject to surveillance to the fact that such surveillance had occurred." This is the standard of title III.

For example, here is the head of a dope

ring operating in Washington or New York. We locate one source of outlet of that dope ring. We get a wiretap on him. From that source, we get information as to a part of those engaged in the conspiracy, but we do not have enough yet about the headman. Mr. President, they are pretty smart. They are in this location this month, and next month they move to another location. When we disconnect the wiretap, if this amendment were adopted, we would have to file an inventory. If we have to give them this information in a situation when they move to a new location, we would thwart the whole purpose of the surveillance and defeat the whole investigation. Criminals are pretty smart. This amendment will help nobody but those engaged in crime. I ask that it be defeated.

Mr. LONG of Missouri. Mr. President, it is hard for me to see why the distinguished Senator from Arkansas would make statements that this provision is only for the benefit of a criminal. I am sure the Senator does not mean to tell the Senator from Missouri that the use of wiretapping by an overzealous Government agent is only for a criminal. This matter affects the Senator from North Carolina and me. There may be a criminal involved in the investigation somewhere, but allowing wiretapping of a citizen, who may be a high, outstanding man in his community, and to permit his conversations to be heard may be damaging to him. Yet if the judge wanted to follow the recommendation of the agent, he could say, "Well, we will postpone the giving of that information indefinitely."

We are all interested in getting at the criminal, but in our enthusiasm to advance that cause, we do not want to overlook the right of private citizens, who are in much greater numbers than criminals.

I have just today received a telegram sent to me by the Association of the Bar of the City of New York. The telegram reads:

NEW YORK, N.Y.,
May 14, 1968.

HON. EDWARD V. LONG,
Senate Office Building,
Washington, D.C.:

Urgent you recommit to committee title III of safe streets bill S. 917 on wire-tapping and eavesdropping. This section dangerous, badly drafted, probably unconstitutional. We believe upshot of its very complicated provisions would be to legitimize most pervasive invasion of privacy yet seriously proposed. Believe more committee study could produce bill commanding widespread support. See our report dated April 24, 1968, previously sent your office and New York Times editorial of May 3, 1968, endorsing same.

THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK,
EASTMAN BIRKETT,
Chairman, Committee on Federal Legislation.
LOUIS A. CRACO,
Chairman, Committee on Civil Rights.
SHELDONN H. ELSEN,
Chairman, Committee on Wiretapping and Eavesdropping.

Mr. President, it is very difficult for me to understand how the Senator from Arkansas could leave the impression that the committee approved the present bill.

Mr. McCLELLAN. Mr. President, we submitted title III to the Justice Department, and asked the Department to help us draft it, so that it would work. It did. The Department made no request that this provision be deleted. It did not agree with the policy behind the bill, but it helped us draft it.

I say that we have had the best experts we could find to write this legislation. I know it is going to be picked at and picked at by those who do not want wiretapping and do not want electronic surveillance as an instrumentality to help catch the crooks and criminals of this country.

We have done the best that can be done, and we have conformed with what the courts have held to be constitutional.

Mr. LONG of Missouri. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. LONG of Missouri. Does not the Senator know that the Justice Department sent up to the Hill precisely the bill which I introduced, dealing with wiretapping?

Mr. McCLELLAN. Yes; I know the Justice Department is against everything in this bill, except for the President to have a right to do everything he wants. I know the Department of Justice is against it; but I have submitted the bill to them, and they reviewed it, and they did not suggest at any time that this provision be stricken from it.

Mr. LONG of Missouri. Mr. President, here is what the Justice Department said about it:

The amendment would delete the provisions authorizing the judge to postpone the service of notice of electronic surveillance. The present version of Title III authorizes such notice to be postponed indefinitely. The amendment should be accepted, but should probably be amended to permit notice to be postponed for a period up to 6 months, where the judge determines that prior notice would substantially interfere with the pending investigation.

That is what the Department of Justice says, and in that connection, speaking about this bill being a bill to fight crime, the Attorney General, who is the head of that Department, testified before the committee on hearings involving S. 928 that in 1966 the Justice Department had secured more indictments under the organized crime drive than had ever been secured in the history of the organized crime drive, and not one of those indictments was secured by the use of electronic eavesdropping or wiretapping; and they did not think it was necessary to have that to properly enforce the law.

Mr. McCLELLAN. I am not so sure about that. They are being called up before the Supreme Court on practically every case that comes up there about whether there are any telephone wiretaps or eavesdropping involved in them.

Mr. LONG of Missouri. Those cases were prior to that time.

Mr. McCLELLAN. Mr. President, I do not know what suggestions the Department of Justice has sent over to those who are trying to pick at this bill now; but I do know that in conversations and conferences in my office, over and over again, they never suggested that this provision be taken out of it.

Mr. TYDINGS. Mr. President, I rise to speak in opposition to amendment No. 734, offered by the Senator from Missouri.

This amendment would deprive a judge, on showing of good cause, of the power to postpone the filing of an inventory.

There are very obvious, commonsense reasons why the filing of an inventory giving the specifics on an electronic interception might be postponed. You might be in the midst of an investigation of a major Cosa Nostra family. You might have a tap on a phone, which was giving you tremendously important information to build a case. It could be a narcotics investigation. It could be on an espionage ring. It could be any one of a number of things. To permit a judge to retain the authority, on a good showing, to postpone the filing of an inventory, is just good commonsense.

The amendment proposed by the Senator from Missouri would delete that authority. It would mean that, regardless of the circumstances—even if it meant the disruption and complete failure of the investigation after months of work—all would go out the window.

That simply does not make sense. If we are going to have a good title III—and I hope we insist on a good title III to make headway in our fight against organized crime—it should be in the form in which we have drafted it, in which the committee has reported it, and whose constitutionality the Department of Justice has approved.

I think it would be a major error to adopt amendment No. 734. Let me, for a moment, emphasize one point in contradiction to those who oppose title III.

The argument is made time and time again that the title as drafted invites indiscriminate use, that private citizens' telephones will be tapped, that the right of privacy will be destroyed.

Mr. President, as the law stands today, we have the worst of both sides. All of our private eyes, our economic detectives, our snoopers, can tap with impunity anybody's wire, on any action from a domestic relations case to a real estate operator or a major manufacturing concern, while the police cannot. The police do not know what they may do, and as a result, those who should not be using wiretaps are using them, and those who need them for law enforcement are prohibited, because of the intolerable lack of uniformity, lack of laws, and lack of continuity.

Title III corrects this situation. It makes illegal the indiscriminate tapping of wires and the electronic surveillance now going on throughout this nation. It provides guidelines, within the constitutional limits laid down by the Berger and Katz cases whereby courts may approve, for specific purposes in specific criminal investigations, specific taps or interceptions.

I point out, Mr. President, that in New York County the district attorney's office has vigorously used electronic surveillance for almost 30 years. Between 1940 and 1959, almost two decades, when the district attorney's office handled 343,745 criminal investigations, electronic surveillance was used in 219 investigations out of the 343,745. Orders, includ-

ing renewal were obtained in 727 cases. Mr. President, out of the 343,745.

Since 1958, the district attorney, Mr. Frank Hogan, has stated that he has averaged 75 orders for wiretaps and 19 for bugs annually. This is in a population of 8 million people, with 5 million telephones in service.

To make use of electronic surveillance is not an easy thing, Mr. President. It is not a lazy way to conduct an investigation. Highly specialized teams of men are required, not only to install the electronic equipment, but to maintain it and to maintain the surveillance. In addition, actual physical surveillance is required to know where and when to install your electronic wiretap. Physical surveillance is also required to man the tapes, evaluate the information, decipher, and prevent the commission of crimes.

Finally, most of the effective information we do have now on the Cosa Nostra, which we have compiled in the last 7 years, has come from use of electronic surveillance. I shall have more to say on this subject as other amendments arise, but I hope the Senate will reject amendment No. 734.

Mr. HRUSKA. Mr. President, my remarks will be brief. In my opinion, the objections to the pending amendment have been well stated by the Senator from Arkansas and the Senator from Maryland. The amendment would have the effect, really, of wrecking the administration of the bill upon its enactment. It is my hope that the Senate will reject the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment—No. 734—of the Senator from Missouri. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Idaho [Mr. CHURCH], the Senator from Pennsylvania [Mr. CLARK], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New York [Mr. KENNEDY], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Wyoming [Mr. MCGEE], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Minnesota [Mr. MONDALE], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Maine [Mr. MUSKIE], the Senator from Georgia [Mr. RUSSELL], and the Senator from Florida [Mr. SMATHERS], are necessarily absent.

On this vote, the Senator from Oregon [Mr. MORSE] is paired with the Senator from South Carolina [Mr. HOLLINGS]. If present and voting, the Senator from Oregon would vote "yea", and the Senator from South Carolina would vote "nay."

I further announce that, if present and voting, the Senator from Alaska [Mr. GRUENING], the Senator from New York [Mr. KENNEDY], the Senator from Pennsylvania [Mr. CLARK], and the Senator from Alaska [Mr. BARTLETT], would each vote "yea."

Mr. DIRKSEN. I announce that the Senator from New York [Mr. JAVITS] is absent on official business.

The Senator from California [Mr. KUCHEL] is necessarily absent.

If present and voting, the Senator from California [Mr. KUCHEL] would vote "nay."

The result was announced—yeas 21, nays 61, as follows:

[No. 149 Leg.]

YEAS—21

Brewster	Fong	Metcalf
Brooke	Hart	Nelson
Burdick	Hartke	Proxmire
Cannon	Hatfield	Ribicoff
Case	Kennedy, Mass.	Williams, N.J.
Cooper	Long, Mo.	Yarborough
Dodd	Long, La.	Young, Ohio

NAYS—61

Aiken	Griffin	Murphy
Allott	Hansen	Pastore
Anderson	Hayden	Pearson
Baker	Hickenlooper	Pell
Bayh	Hill	Percy
Bennett	Holland	Prouty
Bible	Hruska	Randolph
Boggs	Inouye	Scott
Byrd, Va.	Jackson	Smith
Byrd, W. Va.	Jordan, N.C.	Sparkman
Carlson	Jordan, Idaho	Spong
Cotton	Lausche	Stennis
Curtis	Magnuson	Symington
Dirksen	Mansfield	Talmadge
Dominick	McClellan	Thurmond
Eastland	McIntyre	Tower
Ellender	Miller	Tydings
Ervin	Monroney	Williams, Del.
Fannin	Morton	Young, N. Dak.
Fulbright	Moss	
Gore	Mundt	

NOT VOTING—18

Bartlett	Javits	Mondale
Church	Kennedy, N.Y.	Montoya
Clark	Kuchel	Morse
Gruening	McCarthy	Muskie
Harris	McGee	Russell
Hollings	McGovern	Smathers

So the amendment of Mr. LONG of Missouri (No. 734) was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5) to assist in the promotion of economic stabilization by requiring the disclosure of finance charges in connection with extension of credit.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

The Senate resumed the consideration of the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

The PRESIDING OFFICER (Mr. PELL in the chair). The bill is open to further amendment.

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, I ask unanimous consent that no other amendments to title III there be a time limitation of 1 hour on each amendment, the time to be equally divided between the sponsor of the amendment and the manager of the bill, and that there be no time limitation if a substitute or a motion to recommit is offered.

The PRESIDING OFFICER. Is there objection?

Mr. MCCLELLAN. Mr. President, reserving the right to object——

Mr. MANSFIELD. Mr. President, I modify my request, that on the amendment to be offered by the distinguished Senator from Missouri [Mr. LONG] there be a time limitation of 1 hour, the time to be equally divided between the manager of the bill and the Senator from Missouri.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG of Missouri. Mr. President, I call up my amendment No. 728.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

(a) Subparagraph (1)(b) of section 2518, title III, is amended as follows: Delete the comma after the word "been" on line 19 on page 66 and to insert in lieu thereof the word "or" and to strike all of the language on line 20 on page 66 preceding subparagraph (ii).

(b) Subparagraph (3)(a) of section 2518, title III, is amended as follows: Delete the comma after the word "committing" on line 10 on page 68 and insert in lieu thereof the word "or" and to strike all of the language on lines 10 and 11 on page 68 following the word "committed" on line 10 on page 68 and immediately preceding the article "a" on line 11 on page 68.

(c) Subparagraph (3)(d) of section 2519, title III, is amended as follows: Strike the comma after the word "used" on line 21 on page 68 and to strike all of the language on lines 21 and 22 on page 68 following the word "used" on line 21 on page 68 to and inclusive of the word "used" on line 22 on page 68 including the comma following the deleted word "used" on line 22 of page 68.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

How much time does the Senator yield himself?

Mr. LONG of Missouri. Ten minutes.

Mr. President, I ask unanimous consent to modify the amendment. On page 1, line 5, the word "subparagraph" should be omitted. It is a technical error.

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

Mr. LONG of Missouri. Yes.

The PRESIDING OFFICER. The Senator has a right to modify the amendment. It is modified accordingly.

Mr. LONG of Missouri. Mr. President, the proposed legislation would authorize wiretapping and eavesdropping under the following circumstances: First, where a crime has been committed; second, where a crime is being committed; or, third, where a crime is about to be committed. The proposed amendment would strike from the legislation any possible authorization to wiretap or eavesdrop on the speculative basis that a crime is about to be committed. To invade the privacy of any citizen of this country on the speculative basis that a crime is about to be committed is to sanction endless

"fishing" expeditions for incriminating information.

Mr. PASTORE. Mr. President, I believe we are entitled to have order. We should be able to hear the speaker.

The PRESIDING OFFICER. The Senate will be in order.

Mr. PASTORE. We keep getting after attachés. I hope Senators will abide by decorum, also.

Mr. LONG of Missouri. Mr. President, in order to fully understand the true import of this effort to permit wiretapping and eavesdropping where crimes are about to be committed, let us first examine the other two proposed circumstances where wiretapping and eavesdropping would be authorized—the circumstances where crimes have been or are being committed. To do this it is necessary to briefly examine the organization and operation of a typical police department.

The instant legislation masquerades as the "Omnibus Crime Control and Safe Streets Act of 1968." Title I is essentially a program which would assist local police departments to cope with the rising crime rate. What crimes constitute this rising crime rate? Are they not crimes of violence against persons and property—crimes such as murder, mugging, armed robbery, arson, rape, and so forth? The hearings of the Subcommittee on Administrative Practice and Procedure over some 3 years have furnished ample evidence as to the organization and operations of police departments—particularly how these departments utilize and rely upon modern electronic devices in law enforcement.

All police departments, large or small, follow substantially the same organizational plan: each is divided into, first, the uniform services; second, the detective division; and third, a number of small bureaus concerned with administrative and related matters. The "uniform division" is what its name suggests—in it are the officers in uniform who walk the beats, man the patrol cars, direct traffic, and so on. This is usually the largest division within the department.

The detective division comes next in size and it is subdivided into the homicide squad, the rackets squad, the vice squad, and so forth. It is the detective division, together with the uniform services which, day-in-and-day-out is actively and directly engaged in the "war against crime." What are their weapons? Good old fashioned brains and experience, persistence and diligence, and, above all, just plain shoe leather. The last weapons they have repeatedly stated that they need in this day-to-day struggle is a tape recorder, a headset, or a miniature microphone.

Who is it then that needs these weapons of "modern law enforcement"? In every metropolitan police department, in almost all of the larger State police departments, and in an alarming number of Federal law enforcement agencies there is a small cadre of men designated the "criminal intelligence" activity. This activity has no specific responsibility for any single crime which has been or is being committed. Its primary fascination is with crimes that are about to be committed. In the pursuit of this fixation millions of scraps of information—quite frequently gossip—are swept up, evaluated, and stored for some future use. Theoretically all of this information should tend to furnish some patterns of active criminality. In fact, this activity picks up a lot of embarrassing information on almost everybody in town.

Now, notwithstanding the fact that wiretapping is and has been illegal and that eavesdropping has at least been questionable, this type of organization has relied heavily upon wiretapping and eavesdropping in the collection of its "criminal intelligence." It is the men who are engaged in this activity that are the proponents of title III. Why? Because, according to them, they are all that stand between we citizens and the total victory of "organized crime." If they cannot continue to wiretap and eavesdrop then they, and we, will lose the fight against "organized crime." These are the professional warriors of whom Justice Holmes once observed "so frequently destroy the very institutions they set out to defend."

Their arguments do not square with the facts. In June of 1965 the President prohibited all forms of wiretapping and eavesdropping in the general field of criminal law enforcement. Subsequently the Attorney General of the United States, who is responsible for all Federal criminal prosecutions, issued regulations for all Federal agencies to implement the President's instructions. The Federal Bureau of Investigation has recently released statistics clearly showing that the rate of prosecutions and convictions has increased in the last 2 years. In the hearings before the Subcommittee on Administrative Practice and Procedure, the Attorney General of the United States testified that the Department of Justice's drive against "organized crime" had prospered notwithstanding the prohibition on wiretapping and eavesdropping. This success has been attributed, in part, to an increased emphasis on the good old fashioned police and investigative methods.

Almost the singular argument in favor of wiretapping and eavesdropping is that "these tools would certainly be a big help." It is not original of me to point out that similar arguments have been made for the rack, thumb-screw, rubber hose, and dozens of other mechanical devices.

The proposed legislation refers to wiretapping and eavesdropping as "authorized interceptions of wire or oral communications" but eavesdropping is still eavesdropping and peeping tomisim is still peeping tomism. Both are repugnant activities and hence the desire to cloak them in secrecy even though they would be court sanctioned under the proposed legislation. All of modern history's dictators have employed these tools in their greater effectiveness—as psychological weapons. It is somewhat embarrassing to note, at this point, that within the last 2 weeks wiretapping and eavesdropping have been outlawed in Czechoslovakia.

Let us consider the psychological use of these weapons. We can all remember the days when the presence of the uniformed police officer on the block contributed to a lawful community. In time this police officer moved behind the steering wheel of a conspiculously decorated police cruiser and covered a much greater area on his "beat." Let us speculate as to the increased effectiveness of a police department that has a closed circuit television camera and a microphone on every street corner and a tap on every telephone—all of this easily monitored back at the police station. Several metropolitan cities already use television to observe and direct the flow of traffic from the central police headquarters. The hearings held by the Subcommittee on Administrative Practice and Procedure have revealed the convenient practice of wiring microphones miles across a city to a central bank of automatic tape recorders that can be monitored and supervised by a single clerk. Any security officer in any department store will tell you that the bigger the cameras and the more conspicuous the "bug" the more effective they are in deterring shoplifting. The impressive thing they have to say about this equipment is that if their presence is known they need not be in working condition. In fact, several department stores which the subcommittee staff investigated used dummy cameras.

I have been suspicious of the radar as I went through some towns that were supposedly monitored by radar. My guess is that in many instances dummy radar equipment is used.

It would be totally unjust and unfair to suggest or attribute any sinister motives to the proponents of "legalized" wiretapping and eavesdropping and no such implication is intended. It would be equally as unjust and unfair for the proponents of wiretapping and eavesdropping to attribute to our opposition any effort to aid and abet criminals because we place as high a regard on the "privacy of the individual" as they place upon the utilization of every law enforcement weapon invented by man. The Subcommittee on Administrative Practice and Procedure has been frequently and publicly accused of aiding and abetting criminals by certain zealots in law enforcement. This unfair and unjust abuse has been accepted along with similar abuse heaped upon the Supreme Court and others who steadfastly defend the Bill of Rights.

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

Mr. LONG of Missouri. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 additional minutes.

Mr. LONG of Missouri. Mr. President, I cannot ignore the potential consequences of placing "legalized" wiretapping and eavesdropping in the hands of any Government agency. These are weapons which can be so easily corrupted—if for no other reason than they are so effective in controlling public behavior. Spying on its own citizens has always been one of the most effective tools of a totalitarian government—the object of their use being the destruction of privacy. I shall quote briefly from the

writings of a member of the Medical Corps, U.S. Army, based on his studies of the Communist techniques used against soldiers in the North Korean prison camps:

> The System conquers by dividing, aiming at the individual man and his immediate friends and companions. It requires informing, self-criticism, and *loss of all privacy* in order to destroy, utterly, those highly personal, individual feelings of love, and trust, and loyalty which can develop between two human beings, and upon which our strength as a people, our heartaches, but also our greatest victories and rewards depend.

The collection of criminal intelligence is a military concept adapted to civilian law enforcment use. As a practical matter this adaptation has been so thorough that in one instance the Subcommittee on Administrative Practice and Procedure found the Food and Drug Administration using eavesdropping equipment which was the envy of our most covert military intelligence agency. In this instance the food and drug investigators had under surveillance the dairy products section of a neighborhood supermarket. As a result, they apprehended two schoolteachers moonlighting as sales clerks selling a milk substitute. The subsequent prosecution resulted in an acquittal and the Food and Drug Administration came off with a very red face for having played such an ignoble part in the service of a democracy.

I remember that the agent who testified before my committee, when charged that he had committed perjury, stated that he would commit perjury again if it was possible to send two girls of that kind to the penitentiary.

The techniques of military intelligence have played a vital role in many of warfare's most brilliant successes. It has existed as an acceptable practice against one's enemies since at least the days of Moses when he selected men from each of the 12 tribes and sent them into Canaan with these instructions:

> See the land, what it is; and the people that dwelleth therein, whether they be strong or weak, few or many; And what the land is that they dwell in, whether it be good or bad; and what cities they be that they dwell in, whether in tents, or in strongholds; And what the land is, whether it be fat or lean, whether there be wood therein or not.

We, as Americans, need only recall some of our victories during World War II which were the results of having broken the Japanese military codes. I am also clearly mindful that many great nations have been destroyed from within—some of them by subversive elements and others by the very institutions which they approved and encouraged for their own security. I cannot accept the proposition that our many other scientific advances in law enforcement are so inadequate or limited in their use in the war on organized crime that our Government should authorize and direct the tools of espionage towards our own citizens—that we should do so under the guise of a broad and secret surveillance for crimes about to be committed—all at the expense of individual privacy. Neither can I accept the proponents rationale that the only way to fight fire is with fire. Not while there is a single alternative available. To do so would be to accept the proposition that we should burn down the barn to roast the pig.

The legislation before us, S. 917, treats primarily with a grave national problem—crime in the streets. This is a problem which affects our wives, children, and friends—that daily involves the safety of their persons and property. Title III treats primarily with organized crime—that nationwide criminal conspiracy which transcends State and national boundaries. A subcommittee of the Senate will soon begin hearings on one of the activities of this conspiracy; namely, "loan sharking." These hearings may well lead to legislation which will destroy this conspiracy's illegal earnings at their source. Title III, on the other hand, prescribes a remedy which might be as fatal as the disease. For that reason alone it deserves a much more serious examination by every Member of this body than this brief debate allows.

The proposed amendment No. 728 would at least reduce the "dose" by limiting the administration of the remedy to circumstances where the disease existed. It would restrict wiretapping and eavesdropping to those crimes which had been or were being committed, and not with some overzealous Federal agent or law-enforcement official making legislation needed in the future.

Mr. COOPER. Mr. President, will the Senator from Missouri yield?

Mr. LONG of Missouri. I yield.

Mr. COOPER. As I understand the purpose of the Senator's amendment, it is to strike from section 2518 in several places the words which would authorize an application to be filed for the interception of a wire or oral communication, when the belief is stated that a crime is about to be committed. As I read the section, it would authorize it, with all of the other provisions, when it is stated that a particular offense has been committed or is being committed. The words of this section include also, "or is about to be committed."

Am I correct in saying that the purpose of the amendment is to strike out those words which would permit an application to be approved when it is alleged that a crime for an offense is about to be committed?

Mr. LONG of Missouri. That is correct. I feel that that would lend itself to great fishing expeditions.

Mr. COOPER. I want to ask the Senator this question, and ask the Senator from Arkansas [Mr. MCCLELLAN] also to respond. My law practice was a long time ago, but other than that, in securing a warrant or a search warrant, or perhaps a motion for a peace bond, against an individual or individuals, is there any authority that we have, either in our common law or in the statute laws of the States, or in the Federal Government, which would authorize the issuance of a warrant or a search warrant upon the ground that a crime is about to be committed other than in the case of an alleged conspiracy? I should like some Senator who is an authority upon that subject to respond.

Mr. TYDINGS. If I understand the question of the Senator from Kentucky correctly, his question is——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Maryland?

Mr. LONG of Missouri. Yes, but let me answer that. The Senator was asking me the question. As far as I know, search warrants are issued on probable cause that a crime has been or is being committed—period.

Further, let me read the opinion of the Justice Department on this proposition:

> The amendment would prohibit the use of electronic surveillance in connection with offenses about to be committed. The present version of title III authorizes a warrant to be issued in connection with an offense that has been, is being, or is about to be committed.
>
> The conception of an offense that is about to be committed is extremely vague and is likely to be abused in the issuance of a warrant. The amendment should be accepted.

Mr. COOPER. Then the amendment would strike the words "about to be committed"?

Mr. LONG of Missouri. That is correct.

Mr. COOPER. My question is, all of this procedure, of course, as I understand it, for an application, is based upon the law applying to a search warrant. That is the foundation of the section, is it not? What I am asking the Senator from Missouri, the Senator from Arkansas, or the Senator from Maryland is——

Mr. LONG of Missouri. There is considerable difference there.

Mr. COOPER (continuing). Are there any precedents in the common law, in the statute law of the States, or in Federal law, which would permit the issuance of a warrant——

Mr. LONG of Missouri. A peace bond is a warrant.

Mr. COOPER (continuing). Upon the ground that a crime is about to be committed other than when a conspiracy is alleged?

Mr. LONG of Missouri. My answer would be no.

Mr. TYDINGS. Mr. President, will the Senator from Arkansas yield?

Mr. MCCLELLAN. I yield.

Mr. TYDINGS. The Senator from Kentucky said "except when a conspiracy is involved." As the Senator well knows, in most criminal prosecutions or investigations, when no more than one person is involved, the Government or the prosecution generally includes a conspiracy count. But, basically, search warrants have been issued, and are being issued by the same guidelines provided for in title III as now drafted. This will be changed by amendment No. 728, which I hope will be defeated.

Let me suggest the example of a warrant issued to search a house because there is probable cause to believe that weapons have been brought into the State, which may be used to incite riots. I think almost any judge would issue a warrant if there were probable cause to believe that Molotov cocktails were being stored, even if they had not yet been used.

The entire concept of title III, as drafted, parallels the common law and statutory procedure for the issuance of search warrants. To adopt amendment

728 of the Senator from Missouri would seriously weaken the search warrant concept, with respect to oral communications. I can give an example from when I was a U.S. attorney. In my district we were not able to use electronic surveillance. An IRS agent was brought in from another State to work under cover in a gambling operation. We did not learn until the 12th hour that two "torpedoes" were being brought from Detroit. They did not know that this undercover man was an agent. They believed he was a "stoolie." They were brought in to "remove" him.

Had we been able to use electronic surveillance, had this been law, we would have been able to have a court order, perhaps to tap a telephone line, on probable cause that gambling was going on. Particularly, once the information came about the men coming in from Detroit, we would have the right to tap the telephone to prevent a murder from being committed.

I think it would be a grave mistake to adopt amendment 728. If the Senator will search his recollection, I am sure he will recall instances where search warrants were issued in which a crime had not yet been committed, but which was being planned.

Mr. COOPER. Mr. President, I do not want to take all the time, but with respect to a search warrant against property, the property must be particularly described in the pleading, under the Constitution. This provision is directed against interception of communication between persons.

Mr. TYDINGS. A search warrant is directed against persons, too.

Mr. COOPER. Yes. Other than a search warrant for an object, I ask if there is any precedent for securing a warrant against an individual upon the ground that he may commit a crime, unless it is alleged there is a conspiracy.

Mr. TYDINGS. I can give the Senator the answer. If the Senator had information that Mr. X was coming into the District of Columbia, for example, and the Senator had reason to believe, in view of Mr. X's past and other information, that he might be carrying a weapon, the Senator could get a search warrant to make sure he did not come here to shoot somebody in high office, for example. If the Senator went before a judge and had reasonable cause to believe that Mr. X was a dangerous man carrying a dangerous weapon, he would get a search warrant, and he would be able to search him when he came into town.

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

Mr. TYDINGS. I yield.

Mr. CANNON. Assuming what the Senator has stated as being the facts, the Senator is assuming he has committed a crime right then. He would not be getting a search warrant on the possibility that the man might commit a crime. He is carrying a concealed weapon and actually has committed a crime.

Mr. TYDINGS. It depends on the forum. He might be in a forum where it was not illegal to carry a weapon.

Mr. CANNON. I was using the Senator's own example, the District of Columbia.

Mr. TYDINGS. The Senator is getting technical.

Mr. LONG of Missouri. Mr. President, I would like to answer the Senator from Kentucky. There is no precedent at all for that type of wiretapping or warrant. The Senator from Maryland knows, as well as I do, that when two men get together to violate the law it is a conspiracy and it is already a crime. I know of no jurisdiction in which, unless one has violated the law, or there is reason to believe that he is violating the law, one has a right to get a search warrant to search that person.

This is still America.

We are trying to protect the private individual from this type of search warrant. If one is carrying a concealed gun, or there is reasonable cause for believing that he is, then there is a right to issue a warrant in any jurisdiction; but here the crime has been or is being committed; but one cannot go on a fishing expedition. And, further, one should not be able to have warrants issued for wiretapping for crimes "about to be committed."

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, this amendment seeks to weaken the bill, to prohibit the procurement of an order when there is reason to believe that a crime is about to be committed. The Supreme Court made a decision on the issue before us in the Katz case. The legal authority for this provision is patterned after that case. In the Katz case the FBI knew Katz was making long-distance calls each day, during a certain time. They also knew he was a gambler. From that information it was possible to predict, with a high degree of probability, that on the following day another call would be made and that it, too, would deal with gambling. As the case showed, that is precisely what happened. He did make the call the next day. The Supreme Court recognized the legitimacy of that sort of judgment.

I am reading directly from the case:

> Accepting this account of the government's actions as accurate, it is clear that this surveillance was so narrowly circumscribed that a duly authorized magistrate properly notified of the need for such investigation, specifically informed of the basis on which it was to proceed, and clearly apprised of the precise intrusion it would entail, could constitutionally have authorized, with appropriate safeguards, the very limited search and seizure that the government asserts in fact took place.

Mr. COOPER. Is the Senator reading from the decision?

Mr. McCLELLAN. I am reading from the decision, right out of the book.

Mr. COOPER. I am glad the Senator has done that.

Let me ask this question. I know that case was reversed, but not on that ground.

Mr. McCLELLAN. Not on that ground. This is what they could have done legally.

Mr. COOPER. Assuming the proposition as the Senator has been reading it from the decision is correct, the Senator would say it would be necessary for the applicant to recite all the details upon which to base the application?

Mr. McCLELLAN. Yes; we require that in the bill now.

Mr. COOPER. But it would not be sufficient just to say, "I believe a crime is going to be committed"?

Mr. McCLELLAN. No. The proper showing must be made.

Mr. COOPER. A showing must be made to secure a search warrant in any case.

Mr. McCLELLAN. And that is what we do here. This is the last expression of the Supreme Court on the subject.

Mr. President, I do not think there is any question of the legality of the procedure in issue. Senators may oppose it. They may not want law enforcement authorities to have that right. They may want to deny law enforcement authorities that tool. That is one thing. But if they are willing to allow use of this instrumentality within the Constitution, and within what the Court says is legal, then we should vote down the proposed amendment.

Many arguments are being made here. Let us be candid about this. If there are any flaws in this proposal, we want to find them. We do not want anything unconstitutional. We tried to pattern this legislation after what the Supreme Court said in the Berger and Katz decisions. I think we have, but if in any particular we have not, we want to find it as much as anybody else.

The fact that Senators may be against the whole concept is one thing. To them I say, "All right, be against it". But let us not weaken the bill so that it cannot be effective. Let us give it what strength we can give it within the Constitution, if we favor this concept of law enforcement.

And, Mr. President, in arguing against it, let us remember that the President's Commission on Law Enforcement and the Administration of Justice said this:

> The American system of law enforcement was not designed with Cosa Nostra criminal organizations in mind, and it has been notably unsuccessful, to date, in preventing such organizations from preying on society.

The Commission concluded, too, that—

> Only in New York have law enforcement officials achieved some level of continuous success in bringing prosecutions against organized crime.

The success was attributed primarily to a combination of dedicated and competent personnel and adequate legal tools, which they defined to include electronic surveillance techniques.

Mr. President, I have mentioned the fact that all of the attorneys general since 1931, excepting the incumbent, have recommended legislation similar to title III. Former Attorney General, now Senator ROBERT F. KENNEDY, stated in 1963 in testimony before my subcommittee, that organized crime has "grown immeasurably since the days of the Kefauver investigation," and that "now we are treading water, but to start to make major inroads, new weapons, including wiretapping, would have to be obtained," and that until then, "the job would not get done."

We are supported here by the Supreme Court, who say it is legal. We have tried to come within every constitutional limitation that we know of, and we have here

a good bill. If Senators can find any real defects in it, that is all right. If Senators wish to be against the bill, that is all right. But let us not weaken it. Let us give our law-enforcement officials all the effective legal tools that we can give them under the Constitution, to try to wage a successful war against crime.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is time yielded back?

Mr. McCLELLAN. I yield back the remainder of my time.

Mr. LONG of Missouri. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment (No. 728), as modified, of the Senator from Missouri. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote, I have a pair with the Senator from Oregon [Mr. MORSE]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Indiana [Mr. BAYH], the Senator from Idaho [Mr. CHURCH], the Senator from Pennsylvania [Mr. CLARK], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from Arizona [Mr. HAYDEN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New York [Mr. KENNEDY], the Senator from Ohio [Mr. LAUSCHE], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Wyoming [Mr. MCGEE], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Minnesota [Mr. MONDALE], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Georgia [Mr. RUSSELL], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

On this vote, the Senator from New York [Mr. KENNEDY], is paired with the Senator from Ohio [Mr. LAUSCHE]. If present and voting, the Senator from New York would vote "yea" and the Senator from Ohio would vot "nay."

On this vote, the Senator from Alaska [Mr. BARTLETT] is paired with the Senator from South Carolina [Mr. HOLLINGS]. If present and voting, the Senator from Alaska would vote "yea" and the Senator from Pennsylvania would vote "nay."

On this vote, the Senator from Alaska [Mr. GRUENING] is paired with the Senator from Pennsylvania [Mr. CLARK]. If present and voting, the Senator from Alaska would vote "yea" and the Senator from Pennsylvania would vote "nay."

Mr. DIRKSEN. I announce that the Senator from New York [Mr. JAVITS] is absent on official business.

The Senator from California [Mr. KUCHEL] is necessarily absent.

If present and voting, the Senator from California [Mr. KUCHEL] would vote "nay."

The result was announced—yeas 18, nays 60, as follows:

[No. 150 Leg.]

YEAS—18

Brewster	Fong	Nelson
Burdick	Hart	Proxmire
Cannon	Hartke	Ribicoff
Case	Kennedy, Mass.	Williams, N.J.
Cooper	Long, Mo.	Yarborough
Dodd	Metcalf	Young, Ohio

NAYS—60

Aiken	Griffin	Murphy
Allott	Hansen	Muskie
Anderson	Hatfield	Pastore
Baker	Hickenlooper	Pearson
Bennett	Hill	Pell
Bible	Holland	Percy
Boggs	Hruska	Prouty
Brooke	Inouye	Randolph
Byrd, Va.	Jackson	Scott
Byrd, W. Va.	Jordan, N.C.	Smith
Carlson	Jordan, Idaho	Sparkman
Cotton	Long, La.	Spong
Curtis	Magnuson	Stennis
Dirksen	McClellan	Symington
Dominick	McIntyre	Talmadge
Eastland	Miller	Thurmond
Ellender	Monroney	Tower
Ervin	Morton	Tydings
Fannin	Moss	Williams, Del.
Gore	Mundt	Young, N. Dak.

PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—21

Bartlett	Hayden	McGee
Bayh	Hollings	McGovern
Church	Javits	Mondale
Clark	Kennedy, N.Y.	Montoya
Fulbright	Kuchel	Morse
Gruening	Lausche	Russell
Harris	McCarthy	Smathers

So the amendment (No. 728), as modified, of Mr. LONG of Missouri, was rejected.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, it is my understanding that the senior Senator from Michigan [Mr. HART] is about to offer an amendment. However, I would like to make an overall unanimous-consent request.

Mr. President, I ask unanimous consent that, with one exception, which I will come to later, there be a time limitation of 30 minutes on all of the amendments to title III from now on, the time to be equally divided between the manager of the bill and the sponsor of the amendment. The single exception is an amendment to be offered by the distinguished Senator from Hawaii [Mr. FONG], for which I would like to ask 1 hour, the time to be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLAND. Reserving the right to object, may I ask a question? Are we talking now just about this title or about all amendments?

Mr. MANSFIELD. All amendments to this title.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. I have no objection, with this reservation: If a substitute is offered for the entire title or if a motion to recommit is offered, then I would want more time, and I would want that reservation.

Mr. MANSFIELD. I accept that reservation.

Mr. HRUSKA. And leave that open for the time being, as to those contingencies.

Mr. McCLELLAN. Yes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The unanimous-consent agreement, subsequently reduced to writing, is as follows:

Ordered, That during the further consideration of title III of S. 917, to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes, debate on all amendments thereto shall be limited to 30 minutes, to be equally divided and controlled by the mover of the amendment and the manager of the bill [Mr. MCCLELLAN], except one amendment, to be offered by the Senator from Hawaii [Mr. FONG], which shall be limited to one hour, to be equally divided.

Ordered further, That this agreement will not be applicable to any substitute amendment for title III or any motion to recommit the bill.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 754

Mr. HART. Mr. President, I call up amendment No. 754, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

Page 73, line 4, after "application," insert "and such other parties to intercepted communications as the judge may determine in his discretion and the interest of justice,".

The PRESIDING OFFICER. Who yields time?

Mr. HART. I yield myself 2 minutes.

Mr. President, this is an amendment which would not be labeled far reaching, but it is important. The Senator from Arkansas has given much thought to this amendment and has had it, I know, under consideration himself.

Mr. CASE. Mr. President, may we have order? I know the Senator desires to be heard.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HART. The Senator from New Jersey is very kind.

I would hope that with a very brief explanation, we might agree that this modification is desirable.

This title requires notice of wiretapping or eavesdropping to be served only on the persons named in the court order. The communications of many other persons, innocent or otherwise, may also be intercepted. The amendment would give the judge who issued the order discretion to require notice to be served on other parties to intercepted communications, even though such parties are not specifically named in the court order. The Berger and Katz decisions established that notice of surveillance is a constitutional requirement of any surveillance statute. It may be that the required notice must be served on all parties to intercepted communications. Since legitimate interests of privacy may make such notice to all parties undesirable, the

amendment leaves the final determination to the judge.

It seems to me that this is a prudent way to respond to what is the underlying concern that has been shared by all of us on the committee.

Mr. COTTON. Is this amendment No. 754?

Mr. HART. This is amendment No. 754.

The PRESIDING OFFICER. The time of the Senator has expired. Does the Senator yield himself additional time?

Mr. HART. I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, I suggest to the distinguished Senator that I believe this modification would be proper, and I believe this is what he means: In the amendment, after the word "discretion" in line 3, strike out "and" and insert "that is in".

Mr. HART. I thank the Senator from Arkansas. I should like to modify the amendment in that manner.

Mr. McCLELLAN. Then it will read: "such other parties to intercepted communications as the judge may determine in his discretion that is in the interest of justice,".

The PRESIDING OFFICER. The amendment is so modified.

Mr. McCLELLAN. Mr. President, I have no objection to the amendment, and I urge that it be adopted.

I yield back the remainder of my time.

Mr. HART. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendments (No. 754), as modified, of the Senator from Michigan.

The amendment, as modified, was agreed to.

AMENDMENT NO. 766

Mr. HART. Mr. President, I call up amendment No. 766, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

(f) where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

The PRESIDING OFFICER. Who yields time?

Mr. HART. I yield myself 3 minutes.

Here again, Mr. President, we are in an area which has relatively narrow application but nonetheless could be of critical importance to an individual. This title leaves open the possibility that extensions of a surveillance warrant may be obtained merely on the basis of the original showing of probable cause. The amendment requires an applicant for an extension of an order to make a fresh and timely showing of probable cause in order to obtain the extension. If a prior surveillance has been unproductive, a judge should not grant an extension of the order unless a reasonable explanation is given for the failure to obtain results under the original order, even though the original showing of probable cause remains valid.

Mr. President, it seems to me that this would, indeed, be of assistance to a judge who wanted conscientiously to apply this statute, and I hope very much that the amendment will be agreed to.

Mr. McCLELLAN. Mr. President, as I interpret the amendment, I believe it is a constructive amendment and one we can readily accept, and I am glad to accept it.

Mr. HART. I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 766) of the Senator from Michigan.

The amendment was agreed to.

AMENDMENT NO. 755

Mr. HART. Mr. President, I call up amendment No. 755.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

Page 73, line 15, at the end of paragraph (d), add the following sentence: "The judge may, in his discretion and the interest of justice, require that the contents of intercepted wire or oral communications shall be disclosed to the parties to the communications.".

Mr. MANSFIELD. Mr. President, if the Senator from Michigan will yield, I express the hope that he would consider not debating this amendment tonight, that it could be the pending business, and that it could be taken up immediately after the prayer and disposition of the Journal in the morning.

Mr. HART. Indeed, yes. And I am grateful to the leadership and to the Senator from Arkansas for their cooperation.

Mr. MANSFIELD. Mr. President, the order has been entered that the Senate stand in recess, after the completion of business today, until 10 o'clock tomorrow morning. There will be no morning hour. The time will start running immediately after the prayer and the disposition of the Journal.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. Mr. President, there will be no further votes tonight. However, it is the intention, I understand, of the distinguished chairman of the Committee on Banking and Currency, and the chairman of the subcommittee, the Senator from Wisconsin [Mr. PROXMIRE], and the ranking minority member [Mr. BENNETT] to bring up the conference report on the truth-in-lending bill.

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

The PRESIDING OFFICER. Time will have to be yielded to the Senator.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that for the remainder of the day time control be waived.

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

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

COMMITTEE MEETINGS DURING SENATE SESSION TOMORROW

Mr. MANSFIELD. Mr. President, after clearing with the other side and interested parties, I ask unanimous consent that two particular committees be permitted to meet during the session of the Senate tomorrow:

The Committee on Public Works and the Permanent Subcommittee on Investigations of the Committee on Government Operations.

Mr. HRUSKA. Mr. President, I wish to ask the Senator if that request is on the basis that out-of-town witnesses will be present for those hearings and that it is only on that basis that the request is made?

Mr. MANSFIELD. The Senator is correct. The witnesses will come from far away and otherwise would be very much inconvenienced.

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

CONSUMER CREDIT PROTECTION ACT—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5) to assist in the promotion of economic stabilization by requiring the disclosure of finance charges in connection with extension of credit. 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 today, pages 14375–14384.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. SPARKMAN. Mr. President, the chairman of the subcommittee that handled this matter, the Senator from Wisconsin [Mr. PROXMIRE] was very active in the conference. I ask that he now present this matter.

Mr. PROXMIRE. Mr. President, it is with great pleasure that I present to the Senate today the truth-in-lending bill, S. 5. Since the truth-in-lending bill was first introduced by former Senator Douglas in 1960, over 8 years ago, it has aroused much controversy and debate. However, the bill which we have recommended to the Senate is a fair bill, a workable bill, and above all a bill which provides the consumer with the protection they need in today's economy.

The enactment of truth in lending will be a great tribute to the original sponsor of the bill and our beloved former colleague, Senator Paul Douglas, of Illinois. It was only through his determined leadership and perseverance that the bill is now before us today. He continued

the struggle where men of lesser stature would have long given up. I know that all of us in the Senate will join with me in wishing our former colleague well in his present work with the President's Commission on Urban Problems.

Mr. President, the truth-in-lending bill now before us was first introduced by me on January 11, 1967. After hearings before the Banking and Currency Committee, the Senate enacted the bill on July 11 by a vote of 92 to 0. The House of Representatives passed a strengthened and considerably more comprehensive measure on February 1, 1968. After six meetings a conference committee appointed to resolve the differences between the House bill and the Senate bill reached final agreement on Tuesday, May 14.

Before explaining the detailed differences between the House bill and the Senate bill and the resulting decisions of the conference committee, I believe a few words would be in order concerning the basic aproach of the Senate bill and the House bill. Ever since former Senator Douglas introduced the bill in 1960, the basic thrust of truth in lending was disclosure. The bill was not a regulatory bill; it did not attempt to regulate interest rates or other credit practices. It did not attempt to alter or amend the pattern of legal rights and remedies afforded consumers and creditors under State law. The simple aim of the bill was to disclose to consumers the full cost of credit both in dollars and cents and in the terms of an annual percentage rate.

The disclosure of the annual percentage rate has been the central point of the 8-year controversy on truth in lending. Senator Douglas could have gotten a truth-in-lending bill much earlier had he been willing to discard the requirement to disclose the annual percentage rate. On this issue he rightfully would not and did not compromise. Although it is important for consumers to know the total dollar cost of credit, it is also extremely important to know the annual percentage rate being charged for the credit. The annual rate provides consumers with a simple yardstick for comparing the cost of credit plans from many different sources. It permits consumers to measure the relative cost of each plan and to shop effectively for the best credit buy. By focusing attention on the rate being charged, the bill also promotes price competition among creditors and will hopefully lead to lower interest charges. Rate disclosure will also make the average consumer more aware of the true cost of credit and will encourage a more judicious use of credit.

The bill passed by the Senate last July required annual rate disclosure for at least 95 percent of the consumer credit industry. It is true that we were not able to extend this principle to conventional, short-term revolving credit plans. However, safeguards were included in the Senate bill which would have prevented creditors converting from installment type credit to revolving type credit merely to escape the annual rate disclosure requirement. Nonetheless, I think it is fair to say that the compromise reached by the Senate Banking and Currency Committee satisfied no one. Many of us felt that all revolving credit plans should be required to disclose the annual percentage rate. This principle was reflected in the original bill which I introduced on January 11 of 1967. Others felt that all revolving credit plans should be exempt from disclosing the annual rate regardless of whether they offered long-term or short-term credit. In fact many in the committee felt the requirement to disclose an annual rate was inherently unworkable and should not be required of any creditor.

Considering the strong differences of opinion which existed on the Senate Banking Committee, I believe we passed the strongest possible disclosure measure. And, as I indicated, it did require the annual rate disclosure requirement to upward of 95 percent of the credit industry. It was this very issue which had delayed progress on the bill for 7 long years. Thus, the Senate bill embodied the essential principle of the original Douglas bill concerning the importance of annual rate disclosure. Senator Douglas himself indicated in testifying on the bill before the House Banking and Currency Committee:

> I am, of course, tremendously pleased that the Senate passed a relatively good Truth-in-Lending bill on July 11, 1967 by the surprising vote of 92 to 0. It may have marked the beginning of the end of a long, long struggle and it was a great victory for Senator Proxmire and its supporters.

The House was able to build upon the achievements of the Senate bill. The strong and prolonged opposition to annual rate disclosure, at least for 95 percent of the credit industry, had virtually collapsed by the time of the House hearings. Moreover, virtually the entire credit industry united to oppose the revolving credit exemption from annual rate disclosure.

As a result of these factors, the House was able to pass a strong disclosure measure and remove some of the exemptions contained in the Senate bill which were necessary to produce agreement on the Senate Banking and Currency Committee. Most of these strengthened measures were agreed to by the conference committee. Thus, in the final analysis the disclosure aspects of the truth-in-lending bill are quite similar to the requirements included in the original bill which I introduced on January 11, 1967.

In addition to strengthening the disclosure provisions, however, the House bill went considerably beyond disclosure. For example, the House bill covers credit advertising, wage garnishments, legal remedies concerning second mortgages and restrictions on loan sharking. In addition, the House bill establishes a National Commission on Consumer Finance to determine whether additional Federal legislation in the consumer area is desirable. All these provisions were also agreed to by the conference committee, with certain modifications.

Since the House bill went beyond the disclosure provisions of the Senate bill, the conference committee agreed to change the short title of the entire bill to the Consumer Credit Protection Act. However, title I of the bill, dealing with disclosure would be known as the Truth in Lending Act.

In referring to the bill today, I shall continue to use the title "Truth in Lending" to apply to the entire bill since that has been its popular title over the last 8 years and has long been associated with its originator, Paul Douglas.

Mr. President, I would now like to outline in some detail the principle differences between the House bill and the Senate bill and the recommendations of the conference committee.

REVOLVING CREDIT

The Senate bill required that on most forms of revolving credit, creditors would disclose the periodic or monthly rate of interest. However, in order to prevent potential abuse the Senate bill included a requirement that revolving credit plans would disclose the annual rate if they approached the characteristics of installment type credit. Installment open end credit plans were defined as credit plans on which any one of the following three characteristics were present:

First. Less than 60 percent of the indebtedness was payable in 1 year; or

Second. The creditor maintained a security interest in the merchandise sold on credit; or

Third. Advance payments reduced the amount of future payments.

The House bill eliminated the distinction between ordinary open end credit plans and installment open end credit plans and required that all open end credit plans disclose the annual percentage rate. This decision was arrived at in an amendment introduced on the floor of the House during consideration of the bill. The bill reported out of the House Banking and Currency Committee included a similar exemption contained in the Senate bill.

The conference committee has recommended that both the periodic or monthly rate and the annual percentage rate be disclosed. Under this approach, creditors with revolving credit plans would disclose to their customers that in the typical case they are charging for credit at the rate of 1½ percent a month or 18 percent per year.

In addition to the annual percentage rate, creditors are given specific permission—at their option—to disclose and advertise the effective yield which they earn on all of their accounts for a representative period of time. Since the effective yield would measure the amount of credit extended from the time of each purchase, it would, in effect, count the customary 30 to 60 days free-ride which most customers receive on revolving credit plans. In many cases, this can result in effective yields of less than 18 percent per year.

The legislation also requires that the Federal Reserve Board issue rules and regulations concerning the computation and disclosure and advertisement of the effective yield. This is to insure that customers have a clear idea of the differences in the two rates which are disclosed by the creditor. The creditor would be required to include a definition of the effective yield and the assumptions upon which it is based.

I believe the report of the conference

committee represents an effective and realistic solution to the knotty problem of revolving credit. It recognizes the importance of annual rate disclosure on all forms of revolving credit plans. In so doing, no single segment of the credit industry would gain an undue competitive advantage over other segments of the industry. At the same time, it permits creditors to disclose the effective yield which they earn on their accounts. This option should be of particular benefit to those creditors using an adjusted balance method billing system which results in a lower dollar charge to consumers. Stores using the adjusted balance method base their charges on the opening balance less any payments received during the month. Stores using the opening balance system base their charge on the opening balance and do not give credit for partial payments made during the month. Thus, even though both stores charge 1½ percent a month or 18 percent a year the dollar cost of the service charge can be substantially higher for the opening balance system. To some extent these differences can be reflected by comparing the effective yield earned by creditors on their revolving credit accounts. The stores using the adjusted balance method will be able to quote and disclose a lower effective yield. Should this be done, I am hopeful that the forces of the marketplace will induce the opening balance system creditors to convert to the adjusted balance method. This could save the American consumer millions of dollars a year in lower service charges.

I believe the recommended compromise is an improvement both over the Senate bill and the House bill. It provides the consumer with more accurate and timely information. It is fair to all segments of the credit industry and it could lead to substantially lower service charges by promoting effective competition between the various billing systems. Thus, the compromise reached was not a compromise between more consumer protection and less consumer protection. Instead it was a solution which improves upon the work of both Houses.

WAGE GARNISHMENT

The second most controversal issue between the two bills was the subject of wage garnishment. Since the Senate bill followed the disclosure approach, it did not include provisions restricting wage garnishments. The House bill on the other hand contained a provision which prevented creditors from garnishing more than 10 percent of a person's weekly salary in excess of $30. These provisions were patterned after the law of the State of New York.

The wage garnishment provisions raised new and substantially different issues. The Senate truth-in-lending bill was limited to disclosure and included disclosure requirements which simply did not exist under most State laws, although a few States within the last year or two have passed truth-in-lending legislation patterned after the Douglas bill. However, all 50 States had some restrictions on wage garnishment, although in many the restrictions are woefully inadequate.

In any event, a serious doubt existed in the minds of some of the Senate conferees concerning the desirability of Federal legislation in this area. Federal restrictions on wage garnishments would preempt the laws of many States. It is also true, however, that many States have failed to provide consumers with the protection needed in today's complex credit economy. For example, hearings recently held by my subcommittee of the Senate Banking Committee on credit practices in the District of Columbia have clearly shown that the easy credit merchants who prey upon the poor are abusing the garnishment system. The ability to garnish a person's wages is an open invitation to the easy credit merchant. It makes it possible for him to deliberately overextend credit to low-income consumers who cannot really afford to go deeper into debt. However, as long as these easy credit merchants can rely upon the garnishment laws to get their money back, they will have a continuing incentive to overextend credit. In effect, the courts are acting as a legalized collection agency on behalf of the easy credit merchants, the cost of which is automatically paid by the poor who are least able to afford it. For these reasons, I favored the House provisions restricting wage garnishment despite the legitimate and sincere arguments raised against these provisions in favor of State responsibility.

As a compromise, the conference committee has agreed upon a provision which would restrict wage garnishments to not more than 25 percent of a person's net salary after taxes. In all cases, however, a sum equal to 30 times the Federal minimum wage, or $48, would be completely exempt from wage garnishment. This would insure that the lowest income consumers would not be subject to wage garnishment. Since the $48 floor would be tied to the Federal minimum wage, it would gradually increase over time as the minimum wage was increased. In this respect the recommended compromise is more liberal than the House bill for the lowest income consumers. Under the House bill anyone earning more than $30 would be subject to wage garnishment. Under the conference committee compromise, wage earners with an after tax income of $48 or a before tax income of approximately $54 would be free from garnishment. Thus, the floor below which garnishment is prohibited was nearly doubled compared to the House bill.

The conference committee report also included a provision which permits the Secretary of Labor, who would administer the garnishment provisions, to exempt any State from the Federal garnishment provisions if the State enacts substantially similar restrictions on wage garnishments. In addition, the effective date of the garnishment provisions was delayed to July 1 of 1970. The purpose of these provisions, recommended by the Senate Conferees, was to give every State an adequate opportunity to avoid Federal regulation by enacting substantially similar legislation.

In effect the Federal Government has set minimum standards. The provision has not automatically preempted the State's authority to legislate on the subject. I believe the compromise is in the best traditions of American federalism and will lead to more effective Federal-State relationships.

SECOND MORTGAGES

Congressman CAHILL, of New Jersey, had a floor amendment to the House bill which included aditional safeguards in the second mortgage area. The amendment included the following provisions:

First. The disclosure requirements would be extended to those who arrange for credit such as mortgage brokers;

Second. A creditor would be required to describe any security interest in real property—such as a second mortgage—arising from the credit transaction;

Third. Consumers legal rights would be strengthened with respect to third parties purchasing residential mortgages;

Fourth. Disclosures pursuant to mortgage transactions would have to be made 3 days prior to consummating the transaction.

The conference bill approves this amendment with the exception that the 3-day waiting period was converted into a 3-day recision period. Disclosure could be made on the same day the transaction was completed; however, consumers would have the right to rescind the contract within a 3-day period following the close of the credit transaction. In addition, the 3-day provisions would not apply on ordinary home purchase transactions, but would cover loans or credit secured by mortgages on property already owned.

FIRST MORTGAGES

The Senate bill exempted all first mortgage transactions from the disclosure requirements of the bill. This was done on the grounds that very few abuses existed in the field of first mortgages and that most lenders extending first mortgage credit already disclosed the true annual rate of interest charged for such credit. The House bill eliminated the exemption for first mortgages and extended the same disclosure requirements to first mortgage lenders as were required of all other creditors. The compromise reached by the conference committee was to include first mortgages under the bill, but to exempt such creditors from listing the total dollar cost of interest payments over the life of the mortgage. Since virtually all mortgage lenders already disclose the annual percentage rate, the truth-in-lending provision should have minimal effect on the mortgage industry. The bill would, however, require that points or discounts would have to be counted in computing the annual percentage rate. The annual rate disclosed would in some cases be higher than the contract rate of interest included on the face of the mortgage. This is because the definition of finance charge under both bills is substantially more comprehensive than the traditional definition and includes all charges incident to the extension of credit, including interest.

EXEMPTION FOR SMALL CREDIT TRANSACTIONS

The Senate bill exempted creditors from disclosing the annual percentage rate whenever the finance charge is less than $10. This provision was included

primarily to alleviate the computation burden which would be placed on small business creditors engaged in small scale credit transactions. The House bill eliminated this exemption and required annual rate disclosure on all credit transactions regardless of size. Under the agreement reached by the conference committee, creditors would be exempt from disclosing the annual percentage rate if, first, the total amount of credit is less than $75 and the total finance charges less than $5; or, second, the total amount of credit is more than $75 and the total finance charges less than $7.50.

In recommending this limited exemption, it is expected that the Commission on Consumer Finance, established by this legislation, would conduct a study to determine the precise impact of this provision and to report their findings to Congress.

MINIMUM CHARGES ON REVOLVING CREDIT

The House bill required creditors to annualize minimum or fixed charges on revolving credit plans and to disclose such a rate on the monthly bill. For example, if a creditor charged 1½ percent a month on the opening balance, subject to a minimum charge of $1; and if the opening balance were $50, the minimum service would apply since 1½ percent times $50 would be less than the minimum. In such cases, the creditor would be required to disclose an annual rate equal to $1 divided by $50, or 2 percent a month, or 24 percent a year.

The conference bill permits a creditor to disclose a nominal annual rate equal to 12 times the creditor's normal monthly rate, provided the total finance charge for that month does not exceed 50 cents. If the finance charge exceeds 50 cents, the creditor would be required to compute the annual rate by dividing the finance charge by the credit balance and expressing such rate as an annual rate.

The effect of the conference provision is to permit creditors to disclose a nominal annual percentage rate equal to 12 times the monthly rate on all monthly statements, as long as minimum or fixed charges authorized by State law did not exceed 50 cents. If State law permitted minimum charges in excess of 50 cents and if the creditor applied such minimum charges, he would be required to annualize such charges and to disclose the resulting rate on each monthly statement. In these cases, the annual rate would vary from statement to statement and could be substantially in excess of the normal rate of 18 percent per year.

In recommending this provision it should be made abundantly clear that the intent of the conference committee is not to authorize or otherwise approve or lend support to the establishment of minimum or fixed charges on revolving credit plans. Nothing in the legislation should be construed to authorize the charging of minimum or fixed charges where such charges are not otherwise authorized by law. Nor should it be inferred that Federal policy supports or approves the establishment of minimum charges.

INSURANCE

The Senate bill specifically exempted premiums for credit life, casualty and liability insurance from being counted in computing the annual percentage rate. This provision was deleted by the House bill, which required that all mandatory charges be counted in computing the annual rate. The conference bill requires that, first, premiums for credit life insurance be included in the rate unless the creditor clearly discloses that such insurance is optional and is not required to obtain the credit; and, second, premiums for property and liability insurance would not be counted in computing the annual rate unless the creditor required that such insurance be purchased from him either directly or indirectly.

DOLLARS PER HUNDRED OPTION

The Senate bill permitted until January 1, 1972, that creditors could express the annual percentage rate in terms of dollars per hundred per year on the declining balance of the obligation. This option was not included in the House bill. The conference bill retains the option until January 1, 1971. To give an example of how this provision would work, let us assume a creditor loaned a person $100 and required that $106 be repaid in 12 equal monthly installments. Under the computations procedures described in the bill, the annual percentage rate would come to 10.90 percent. The creditor would have the option of disclosing this as 10.90 percent or $10.90 per hundred per year. In other words, the same number would be expressed in slightly different form. However, this option would expire on January 1, 1971, after which the percentage form of disclosure would be mandatory in all cases.

The purpose of this option is to avoid possible litigation in those States where the disclosure in percentage form might cause a legal problem. By 1971, however, it was felt that all States would have had an opportunity to correct any legal problems which may exist.

MONTHLY DISCLOSURE ON INSTALLMENT CONTRACTS

The House bill required creditors using monthly statements on installment credit plans to disclose the same information on these statements as is required of revolving credit plans. This information includes the opening and closing balance, the finance charge, and the annual percentage rate.

The bill reported by the conference committee retains this provision in modified form. Instead of requiring creditors with installment type credit plans to disclose on a monthly basis all of the information required of revolving credit plans, the conference report would require the annual percentage rate to be disclosed and the date by which or the period within which payments must be made to avoid an additional finance charge. In addition, the Federal Reserve Board is given the authority to prescribe additional disclosure requirements for those types of installment credit plans approximating the characteristics of revolving credit. The purpose of this is to remove any inducements for creditors to convert from revolving credit to installment credit to escape the monthly disclosures required under revolving credit.

SALES UNDER ADD-ON INSTALLMENT CONTRACTS

The House bill permits creditors selling under add-on installment sales plans to disclose the required information on the first monthly statement rather than at the time of the transaction provided that, first, the creditor does not maintain a security interest; and second, the customer has agreed to the annual percentage rate to be charged in advance. This provision was included in the conference report.

CREDIT ADVERTISING

The House bill included a provision requiring full disclosure on credit advertising. Under the Senate bill disclosure was limited to the time of the credit transaction.

The House provision required that if a creditor advertises certain terms, he must advertise all the relevant terms of his credit plan. For example, if an installment creditor advertises the amount of the downpayment or the amount of any installment payment or the dollar amount of any finance charge or the number of installment payments, he must also advertise the total cash price of the merchandise or amount of the loan, the downpayment, the number of payments, and the amount of each payment and the total finance charge. If any rate is advertised, it must be the annual percentage rate as defined in the bill.

Bait and switch-type advertising would also be prevented. Creditors could not advertise specific credit terms unless they usually and customarily arranged for such credit under the terms advertised.

The provisions for credit advertising were based on the bill originally introduced by Senator Magnuson, who has been an outstanding champion of consumer protection legislation in the Senate. I am delighted that the Senate conferees have accepted virtually intact the credit advertising provisions recommended by the House. These provisions will not only protect consumers, they will also give protection to the honest businessmen against unscrupulous or unfair competition based upon deceptive or tricky advertising.

ADMINISTRATIVE ENFORCEMENT

Under the terms of the Senate bill, enforcement would have been brought about by the courts through provisions for civil penalties. Creditors violating the act would be subject to a penalty equal to twice the amount of the finance charge with a minimum of $100 and a maximum of $1,000. These provisions were agreed to by the House of Representatives. In addition, the House added a system of administrative enforcement. Under the House provisions, the Federal Reserve Board would promulgate rules and regulations applicable to all segments of the credit industry. However, specific enforcement responsibility of the requirements imposed by law and by the Federal Reserve Board's regulations would be allocated to those Federal agencies with specific supervisory responsibilities over separate segments of the credit industry. For example, compliance by national banks would be enforced by the Comptroller of the Currency, or State nonmember banks by the Federal Deposit Insurance Corporation and State member banks by the Federal Reserve Board. The Federal Home Loan Bank Board would enforce compliance on the part of savings and loan associations. The Federal Trade Commission would have re-

sidual jurisdiction over all other segments of the credit industry not specifically enumerated in the enforcement provisions.

These provisions were adopted in the conference report.

COMMISSION ON CONSUMER FINANCE

The House bill established a nine-member commission to study the structure and workings of the consumer finance industry and to determine if additional Federal regulation is needed, including the desirability of Federal charters for consumer finance companies. This provision was agreed to by the conference committee. The life of the commission was extended from March 31, 1970 to March 31, 1971.

LOAN SHARKING

The House bill was amended on the floor of the House to include a provision dealing with loan sharking. This provision would make it a Federal felony to extend credit with the understanding that criminal means would be used to enforce the obligation to repay. The penalty for entering into an extortionate extension of credit includes a fine of $10,000 or a prison term of 20 years or both. An extortionate extension of credit is defined as one in which it is the understanding of the creditor and the debtor that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to collect the debt.

In order to provide the Department of Justice with the means for enforcing this provision, the House provision set up a prima facie rule of evidence that any extension of credit is extortionate if all of the following factors are present:

First. The debt is legally uncollectable under State law;

Second. The annual rate charged for the debt exceeds 45 percent per year;

Third. The debt exceeds $100;

Fourth. The debtor reasonably believed that either, first, the creditor resorted to extortionate methods on one or more occasions, or second, the creditor had a general reputation for using extortionate methods to enforce repayments.

Once again these provisions raised serious questions of Federal-State responsibilities. Nonetheless, because of the importance of the problem, the Senate conferees agreed to the House provision. Organized crime operates on a national scale. One of the principal sources of revenue of organized crime comes from loan sharking. If we are to win the battle against organized crime we must strike at their source of revenue and give the Justice Department additional tools to deal with the problem. The problem simply cannot be solved by the States alone. We must bring into play the full resources of the Federal Government.

EFFECTIVE DATE

The disclosure provisions of the Senate bill were effective on July 1, 1969. Under the House bill, the disclosure and advertising provisions were effective in 9 months following enactment. All other provisions were effective immediately. Under the conference bill, the disclosure provisions are effective on July 1, 1969, the garnishment provisions are effective on July 1, 1970, and all other provisions effective immediately.

Mr. President, it has taken 8 long years to get this legislation through the Congress. Like all worthwhile reform measures it takes a number of years to mobilize support. However, in enacting the truth-in-lending bill I believe we have achieved a victory not only for the consumer but for the average businessman as well. The bill permits consumers to shop effectively for the best credit buy; it also protects businessmen against unfair and deceptive competition.

It is somewhat hazardous to list all of those who have played an important part in passing this important legislation. So many people have made an important contribution that to list them all would run to many pages of the CONGRESSIONAL RECORD. Nonetheless, I believe a few outstanding names must be mentioned.

First of all, Mrs. LEONOR SULLIVAN, of Missouri, must be given a tremendous amount of credit for her leadership on the House side. Many of the additional provisions in the bill, including those on credit advertising and wage garnishments were included in the bill introduced by Mrs. SULLIVAN. In addition she led the fight to improve and strengthen the disclosure provisions of the Senate bill. More than any other person, she is responsible for the strong and effective bill which emerged from the House of Representatives.

Much of the credit for passing a strong truth-in-lending bill must also be given to Congressman WRIGHT PATMAN, the chairman of the House Banking and Currency Committee. Throughout the years, Congressman PATMAN has proven that he is a champion of consumer causes. He continued to demonstrate his concern for consumers by working along with Mrs. SULLIVAN for an effective measure.

We must also recognize the constructive and able role played by Senator JOHN SPARKMAN, the chairman of the Senate Banking and Currency Committee and Senator WALLACE BENNETT, the ranking Republican member from the State of Utah. Senator BENNETT has always endorsed the main principle of truth in lending and has worked diligently to insure that the final bill is both workable and fair. Senator BENNETT did a marvelous job in committee on the floor and in the conference committee. I might add that it was only through Senator SPARKMAN'S skillful leadership that we were able to reconcile the diverse and sometimes conflicting viewpoints and to develop an effective and workable bill. Other Senators, of course, played a most important role. The Senator from Maine [Mr. MUSKIE] demonstrated his great brilliance, grasp, and understanding of this most complicated revolving credit issue and was most helpful in permitting us to resolve our differences.

During the 8 long years of struggle, many groups have helped to develop support for truth in lending. I want to express my particular gratitude to the Credit Union movement which from the beginning championed the truth-in-lending bill. The same is true of the National Association of Mutual Savings Banks. Through the years the AFL–CIO has given much time and effort to the cause. I hope I will not offend any of my friends in the labor movement by expressing my particular admiration and gratitude to the International Ladies Garment Workers Union and its indefatigable legislative representative, Evelyn DuBrow. Another persistent and tireless worker for the cause was Mrs. Sarah H. Newman, general secretary, National Consumers League.

A number of members of the academic community also made outstanding contributions. The earliest and most consistent support throughout the years has been from Richard L. D. Morris of Kansas State University. Dick Morris was making speeches on truth in lending even before Senator DOUGLAS introduced the first truth-in-lending bill. Through the years he supplied the sponsors of truth in lending with a continuing stream of material and encouragement.

Another outstanding contribution came from Father Robert J. McEwen, chairman of the Department of Economics, Boston College. Father McEwen has long been a champion of consumer causes and was most instrumental in securing the enactment of the Massachusetts truth-in-lending law which was a forerunner to the Federal bill.

As is the case with much reform legislation, truth in lending was initially opposed by the industry affected, that is the credit industry. To take one historical example, the chairman of the New York Stock Exchange solemnly predicted that as a result of the Securities Exchange Act of 1933 the securities industry would collapse and that grass would grow on Wall Street. Just the opposite has occurred. The Securities Act has maintained and increased public confidence in the securities industry and has made it much stronger as a result.

I believe the same will hold true of the truth-in-lending legislation. The State of Massachusetts has demonstrated that the full disclosure of credit charges is both reasonable and workable. Testimony from Massachusetts businessmen before both the Senate and the House banking committees clearly demonstrates that the Massachusetts truth-in-lending law has been an outstanding success. I believe the same will hold true for the Federal truth-in-lending bill.

In the final analysis the bill was based upon the fundamental premise that consumers have a right to know the facts. It is only through free and full disclosure that our competitive free enterprise system can be made to function effectively. The truth-in-lending bill should not be thought of as proconsumer or antibusiness. Instead, it is profree enterprise. By informing consumers, it increases public confidence, enhances competition, and improves credit practices.

I hope that the entire Senate will agree with me that in taking the final step in the legislative process to enact the truth-in-lending bill, we will bring to reality the long-held dream of Paul H. Douglas.

Mr. BENNETT. Mr. President, as the

minority Member who has been working on the bill for 8 years, may I express a sense of relief that the Senate and Congress has come to the point that it can at least put out a bill which will make a start on this problem.

The bill is a compromise. I think it is still full of rather serious problems, because many of the ideas it contains are theoretical rather than practical. We will not know until after we have gone through the experience of trying to live with the bill, whether any additional changes will be needed.

We have passed on to the Federal Reserve Board the responsibility for writing regulations. The bill does not go into effect for another year, so that they will have time to study it.

I think there are some problems in the garnishment section. At the moment, I do not know exactly what the amount exempt from garnishment will be. For the first time in my experience as a conferee, the staff discovered a situation, after the conference had been agreed to, that one part of the provision is probably impractical. But the conference had been agreed to, and we could not go back and correct it.

I think there may be some other things in the bill that are similarly difficult so that I believe before we get what we would consider to be a practical bill, there must be some further amendments to it.

I also feel that I should say to the Senate that the bill is not going to solve the credit problems of the poor. Their problems grow out of their lack of understanding of credit, and because of that, their misuse or by misusing it, they occasionally give men in business an opportunity to exploit them. The bill will not wipe out all of those opportunities. But, we have made a start. That is important.

We have built a framework and as we try to live with it, we may discover that we have made some mistakes.

So, from that point of view, as I say, I am happy that the bill has been passed. I do not agree with all of the decisions made by the conference, but I signed it because I felt that to do otherwise would tag me as being opposed to supplying information to creditors about the cost of their credit.

I certainly recommend to the Senate that it approve the conference report, for the same reasons that I approved it; but I am sure there may be some in the group who have the same reservations.

I appreciate the kind things that the Senator from Wisconsin [Mr. PROXMIRE] said about my contribution to the bill over the years. I think his own contribution should not go unnoticed.

When Senator Douglas left this body, Senator PROXMIRE picked up his responsibilities, and through the last 2 years I have been working with Senator PROXMIRE as chairman of the subcommittee. That relationship has been a very happy one for me. We have not always agreed on what we thought the bill should contain, but we have respected each other's point of view and we have been able peaceably to work together in bringing this bill into being. He certainly shares whatever credit there may be, and deserves a great share, because he provided the leadership which finally, after nearly 8 years, brought a piece of legislation which, as I say, I think represents a start.

I again repeat, I hope the Senate will approve the report.

Mr. PERCY. Mr. President, I would be remiss if I did not also comment on the contribution to this bill of my predecessor, former Senator Paul Douglas, of Illinois. I stated when I came to the U.S. Senate that I would feel obligated to work on behalf of all those things which he was working on with which I agreed. That was a conditional commitment to myself, but I did find several areas in which I concurred in the work he was doing here.

It was, therefore, with a great sense of gratification that I took a place on the Committee on Banking and Currency of the Senate. One of the earliest pieces of legislation we worked on was truth in lending. I had there an opportunity to see a tremendously complicated concept unraveled by understanding compromises by our able and distinguished chairman of the committee, the Senator from Alabama [Mr. SPARKMAN].

I also saw, with a good deal of satisfaction, the minority side of the committee, under the leadership of the Senator from Utah [Mr. BENNETT] ably work toward a compromise which was acceptable and which carried unanimously not only through the committee but the Senate itself.

I have been particularly impressed with the tenacity of the distinguished Senator from Wisconsin [Mr. PROXMIRE], who worked uphill most of the time. Jogging uphill as well as downhill is his avocation, and he carries on against the most difficult odds at times. I developed a tremendous appreciation for what he did in this field.

Also, I wish to mention a very valiant lady in the other body, Congresswoman LEONOR SULLIVAN, whom I have gotten to know through her interest in the concept of homeownership for low-income families. I have watched with admiration her fight to strengthen what I considered to be ready a strong truth-in-lending bill. I think we have as a result a piece of legislation that the Senate can accept with great confidence. The House has already, of course, approved it earlier this afternoon.

I would like to comment particularly on the section that the Senator from Wisconsin [Mr. PROXMIRE] earlier mentioned.

Title II of the conference report contains a very important and new provision of law to assist in the war on organized crime. It is entitled "Extortionate Credit Transactions," and it addresses itself to the growing business of organized crime known as loan sharking, or the "juice" racket.

The provision was proposed on the floor of the House by Congressman RICHARD POFF, of Virginia, an extremely able and distinguished minority member of the House Judiciary Committee. Congressman POFF is also chairman of the House Republican task force on crime, vice chairman of the Commission To Revise and Reform the Federal Criminal Laws, and a widely recognized expert on law enforcement and criminal administration. His ability and leadership are amply demonstrated in the perception and craftsmanship that have produced this excellent amendment to the truth-in-lending bill, and that have allowed the Congress to swiftly respond to a rapidly growing activity of the organized crime syndicates. The members of the task force are to be commended for this contribution to the achievements of the Congress in the fight against organized crime.

Mr. President, this is the first comprehensive attack on the interstate aspects of the insidious criminal activity. At an appropriate time, I will propose an amendment to include the crimes enumerated under title II of the conference report in the crimes for the detection of which an electronic surveillance order may be issued under title III of the omnibus crime control bill, now under consideration in this body. I would hope the President would sign this bill into law with all dispatch so that this provision to fully implement the new law may be made.

As the ranking minority member of the Subcommittee on Small Business of the Banking and Currency Committee, I have followed with great interest the hearings recently conducted by the Senate Select Committee on Small Business on the impact of loan sharking on small business. I was pleased to introduce the executive director of our Illinois Crime Commission, Mr. Charles Siragusa, to that committee last week. The testimony he and his associates gave was on the victimization of the poor and less privileged inner-city residents by the loan shark racketeers. The distinguished chairman of that committee, the Senator from Florida [Mr. SMATHERS], is to be commended for his bringing this situation to the attention of the Senate and the public.

Mr. President, I hope that the pending conference report will be agreed to.

Mr. SPARKMAN. Mr. President, let me say I am grateful to all Senators who have made comments on this conference report and to all who have worked on it, and that includes the entire Senate Banking and Currency Committee.

I call attention to the fact that the bill was reported by the committee without a single dissenting vote, that it passed the House on a rollcall by unanimous vote, and now, in a few minutes, I hope, we shall be bringing it to a final conclusion by unanimous vote in the Senate. I think that is a remarkable record for a piece of highly controversial legislation as this started out to be.

I give great credit to the chairman of the subcommittee, Senator PROXMIRE, and to the ranking Republican member, Senator BENNETT, who worked so closely with us in trying to work out this bill. I also give credit to the Senator from Maine [Mr. MUSKIE], who was one of the early sponsors of this legislation and who proved himself to be quite constructive both in committee and in the conference.

I give credit to every single member of the Banking and Currency Committee

for a wonderful job on a most difficult piece of legislation.

Mrs. LEONOR SULLIVAN and Congressman WRIGHT PATMAN of the House Banking and Currency Committee, are also to be given credit for championing the effective and comprehensive bill that passed the House of Representatives.

I am hopeful that, in the final analysis, the bill will prove to be of benefit to consumers and workable to the average businessman.

Mr. President, I am pleased to see at long last what may be final action on S. 5, the truth-in-lending bill, originally introduced by Senator PROXMIRE on January 11, 1967, which is now before us. The bill represents more than a year of work and hearings concerning credit cost disclosure. I refer only to this bill, to say nothing of the predecessor bill, which ran over a period of 6 years. While the bill does not satisfy all of the wishes of those who have played a part in the legislation, on balance I believe it represents a fair and workable bill that will provide consumers with substantially more information.

Different approaches were suggested regarding many problem areas covered by the bill. However, effective compromises were developed. An example is that of credit insurance. Many suggested that credit insurance premiums should be included as a part of the finance charge and in the calculations to determine the annual percentage rate. Others argued that the premiums were not part of the finance charge since the insurance was for the benefit of the consumer. The committee agreed to a provision that is workable and fair.

When the creditor makes the required disclosures as to credit insurance and the prospective debtor acknowledges in writing that he is not required to purchase credit insurance, then the insurance premium is not part of the finance charge. However, if the debtor is required to purchase the insurance as a condition to the extension of credit, then the premium is to be included in computing the annual percentage rate.

Mr. President, mention has been made of the fact that the effective date of the bill is a little more than a year away, July 1, 1969. That date was selected purposely in the hope that by that time the States will have had an opportunity to act upon the recommendations for a uniform consumer credit code which is being developed by the Commission on Uniform State Laws. I believe the State legislatures should have an opportunity to give further study to this perplexing and distressing problem throughout the country, and to adopt their own laws. Should the States enact legislation substantially similar to the Federal bill, they can become exempt from the Federal law.

The garnishment measure does not become effective until July 1, 1970. Again, that is for the purpose of allowing States to restudy, if they desire to do so, their own garnishment laws to make sure that they are fair to the consumer as well as to the creditor.

I believe both those provisions are good.

I wish to say just a word about credit insurance. Credit insurance, which is treated in this conference report, can be beneficial to the consumer when the cost is fair and economical. Accordingly, it can be expected that many consumers will take advantage of credit insurance on this basis. While creditors must make it clear that credit insurance is not required, the fact that a given percentage of prospective debtors normally request credit life and accident and health insurance should not be construed to mean that such insurance is a factor in the approval or extension of credit. This must be determined on the basis of the facts in each individual case.

I believe that is the meaning of the conference report, and I think it should be clear. In other words, we are trying to protect the consumer from being forced to buy insurance, but at the same time we are trying to preserve to him the right to take it if he wants it, as a protection to his own position.

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

Mr. SPARKMAN. I yield.

Mr. HART. Mr. President, these rituals are sometimes suspect, because committee members who have labored long over difficult problems thus acknowledge to each other that the job is a good one.

I lingered here tonight because I would like to speak to the members of the committee for those who are not on the committee. While we do not know, in full detail, the agonies that went into what the committee now presents before the Senate, most of us who have been sponsoring these bills over the years realize the enormity of the problem and the intensity of the pressures, and I am satisfied that what the committee has brought from the conference represents a magnificent achievement in consumer protection.

So I lingered tonight to thank all the members of the committee for what I think will be noted as one of the truly historic achievements of this and many Congresses.

Mr. SPARKMAN. Mr. President, those are most generous remarks of the distinguished Senator from Michigan, and I thank him on behalf of the entire committee.

TRUTH IN LENDING AND MORE

Mr. NELSON. Mr. President, many problems confront the consumer today. Everyone is exposed to unethical practice and high pressure selling; rising prices and escalating credit charges; inferior product quality and recurrent repair difficulties. And it is no doubt true, we all are concerned with being able to pay our bills and staying out of debt. Nevertheless, in our credit oriented economic system, few buyers can pay cash for everything they buy; not even the very wealthy. In fact, last year the consumer debt was about $86 billion.

It is also true that for the wary and well to do, as well as the unsophisticated and economically despairing, present-day practices have made it difficult to make intelligent decisions about credit. Former Senator Paul Douglas was among the first to perceive the need for legislation to protect consumers from deceptive and misleading practices of lending institutions, merchants and others who extend credit. After careful investigation the Congress is now acting on this important matter. Senator WILLIAM PROXMIRE should be applauded for guiding this measure through the Senate and for his outstanding achievement in regard to this vital legislation. The Senate-House conference committee has reported a measure that deserves both acceptance and applause. This proposal will go a long way toward curbing the abuses of consumer credit while imposing no hardship upon legitimate merchants.

The truth-in-lending bill does several things. It requires that lenders and retail creditors disclose the cost of credit offered to the customer. In this way the consumer can compare how much it will cost to do business with lending institution A as opposed to B.

Second, this bill requires the full disclosure of interest rates on all revolving charge accounts on both an annual and monthly basis. This means that the buyer will know the rate being charged by the store for a deferred payment plan.

In addition, this bill restricts the amount of money that can be garnished from a man's wages as well as imposing regulations upon credit life insurance and credit advertising. The truth-in-lending bill also makes it a Federal crime to extend credit with the understanding that criminal means will be used to enforce the obligation to repay. This provision is aimed at the loan shark business, which is infiltrated with criminals. "Juice money" as it is called in the Midwest, has become a source of tremendous revenue for syndicated gangsters and this proposal is the first step toward cracking down on this racket.

While the truth-in-lending bill is a giant step forward, it is only the beginning. New imaginative programs must be initiated to further protect the consumer. To illustrate why I say this, let me give you some examples of consumer exploitation brought to my attention:

A housewife was contacted by a magazine subscription company. The saleslady led her to believe that by purchasing one magazine at a low weekly rate, she would receive three others at no extra cost. While there was no extra charge, the initial subscription price had been jacked up so that the cost of the supposed free magazines was hidden in the weekly charge. While you might say, let the buyer beware, I say the time has come to remove deception from the marketplace.

Another shocking example recently involved a women on welfare payments. She had hardly enough money to pay the food bill let alone the extravagance of a stereo television console. In any event, the store sold her a television console on the following terms:

1. Cash sale price	$711.60
2. No down payment	0
3. Balance (1 minus 2)	711.60
4. Credit service charge	198.78

5. Principal balance (3 plus 4)	910.38
6. Charges for credit life insurance	16.61
(If selected) F.F.	2.00
7. Charges for credit accident and sickness insurance	35.87
8. Time balance (5 plus 6 plus 7)	964.86
9. Previous time balance time sales price (2 plus 8)	964.86

Payable in 48 equal installments of $27 and one final installment of $9.86 starting on—and monthly thereafter.

The total price, as you can easily determine, was over $1,300. It was not long before this imprudent purchase could not be paid for. The store quickly repossessed the TV, pocketing the money already paid and taking the set back to resell it again. You might feel gyped if this had happened to you, but if you were an uneducated, frustrated, poor woman, what would you do?

These are not isolated examples. Whether it is a TV set or a refrigerator, magazine subscriptions, or aluminum siding, fast-talking, dishonest, and deceptive sales practices are bilking the American consumer.

But if your reaction is like so many I hear—that could not happen to me—let us explore another area which I think you will be able to appreciate a little.

I submit that warranties on consumer goods are becoming meaningless to the shopper, because many manufacturers are making promises that are not being honored. Some are even making pledges that cannot be fulfilled. In fact, you cannot mention this subject to anyone anywhere, without somebody saying, "Let me tell you what happened to me. That warranty wasn't worth the paper it was printed on."

Many of the complaints I have heard have involved the failure of the product itself. But there are other problems, too: excessive labor costs; delay in service; and annoying trips back and forth for repeated repairs of the same product.

Thus one man told me about the power steering problem on his new car. He said, the steering worked fine until he tried to get into a tight parking spot.

He added:

You should have heard the screeching and squeaking.

Another complained that his power brakes worked well during the summer, but when it got below freezing, they did not work properly. Both these people brought their cars in to be fixed and after considerable aggravation, got them repaired. However, in both cases the warrantee did not cover the costs. Both complained that their warrantee was useless, although they were led to believe upon buying the car that it would protect them against just such circumstances.

Another case, was that of the lawnmower. It did a great job of cutting down the dandelions, but could not cleanly cut a blade of grass.

Similarly, there was the snowplow, that only performed when there was no more than 2 inches of snow. Again upon returning these items, to the proper service dealer, they were eventually fixed. But there was one hitch; the snowplow was returned just in time for the first April shower and the lawnmower came back in tiptop shape to be stored for the winter.

Still another case involved a toaster, that had a mind of its own, popping up different degrees of burnt toast. It was fixed, and pleased everyone in the family; but within 6 weeks it was ready to be repaired again. Rather than go through the same amount of trouble and with the same possible results, they bought another toaster.

Isolated examples? Just think back a little; was it your refrigerator that would not defrost; your television set that could not pickup UHF stations clearly; your hot water heater that worked only when you did not want to take a bath; or was it your new steam-dry iron that always burnt that new synthetic fabric? Whatever your experience, do you remember trying to get the product fixed, at no extra cost, as your warrantee seemed to suggest? Do you recall that you had to pay the mailing cost and the redelivery fee; or if you did not have to mail the product back to the manufacturer but had to bring it to an authorized service dealer, the trouble and inconvenience you experienced in trying to find the proper serviceman? And what about the time you brought the broken item to the wrong service dealer only to find out that your warrantee was then worthless.

These are some of the problems that consumers have to face when they try to take advantage of their warrantee. What can be done to eliminate these and the other difficulties I have mentioned which confront the consumer?

Certainly legislation such as the truth-in-packaging law, enacted last year, and the present truth-in-lending bill now pending will go a long way toward curing some of the evils which I have already described. Hopefully, because of these new initiatives, chicanery and deception will disappear from the marketplace. But I am certain that this lofty principle will not be easily translated into reality. For consumer protection legislation to be effective, cooperation from the business community is necessary. Of course, consumers must do their part also.

In conclusion, I want to commend the joint House and Senate committee for their excellent work and achievement. I warmly endorse the truth-in-lending bill and feel confident that it will help a great deal.

However, I need not remind you that we can ill afford to become complacent in this area. These new laws are just the cornerstones—much work still remains to be done. This is a responsibility that I am sure we will not shirk, but rather will welcome.

Mr. SPARKMAN. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

The PRESIDING OFFICER. What is the will of the Senate?

NEW FDA COMMISSIONER MUST BE DEDICATED TO SERVING THE PUBLIC INTEREST

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished junior Senator from New Mexico [Mr. MONTOYA], who is unavoidably absent, and, accompanying his statement, an article entitled "The Tragedy of Thalidomide Babies: Preview of a New German Horror Trial," written by Leonard Gross, and published in Look magazine for May 28, 1968.

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

STATEMENT OF SENATOR MONTOYA

An article which appeared in the May 28, 1968, issue of Look magazine entitled, "The Tragedy of Thalidomide Babies: Preview of a New German Horror Trial," tells the story of the criminal case which will begin in Germany on May 27 against nine employees of the firm which discovered and promoted the drug Thalidomide.

The charges against these men are: intent to do bodily harm; involuntary manslaughter.

These nine men were so eager to market Thalidomide, a sleep-inducing drug, that they failed to test it properly. They sold this drug in Germany and to licensees in 45 other countries with assurances that it was safe, though no such assurances existed. Thousands of people who took this drug suffered serious adverse effects to their nervous system. But these nine men made light of such reports, lied to doctors, and to public health authorities. When the reports became too numerous to ignore, the defendants did everything they could to suppress them, and used money to encourage the production of favorable reports.

This drug, advertised as safe even for pregnant women, "did finally cause the birth of 7,000 monster babies throughout the world, some of whom died, some of whom were killed and most of whom now live maimed lives."

Such a tragedy could happen again, and perhaps the next time the United States will not be spared. A key means of averting such mass suffering and waste of human lives is to have as Food and Drug Commissioner a man dedicated to serving the public interest, dedicated to the enforcement of the Food and Drug laws, dedicated to insuring that the drugs which reach our citizens are safe and effective.

Dr. James Goddard is such a man, and I read with regret in this morning's press of his resignation. It is essential that his successor in this highly sensitive position be a similarly outstanding individual who will carry on in the tradition of Dr. Goddard to protect the public against such occurrences as the Thalidomide tragedy. Dr. Herbert L. Ley, Director of FDA's Bureau of Medicine is such a man and has been recommended by Dr. Goddard as his successor. Winton Rankin, Deputy Commissioner of FDA is also of such caliber.

It is to be hoped that one of these two men—both with fine records of public service and concern—will be selected by the President for the leadership role at FDA.

Certainly, the new Commissioner should be understanding and appreciative of the role of drug manufacturers. But his primary obligation is to the people of the United States. In other words, we come first.

THE TRAGEDY OF THALIDOMIDE BABIES: PREVIEW OF A NEW GERMAN HORROR TRIAL

(By Leonard Goss)

Men forgive a blunder. They try to understand the crime of passion. But they judge

remorselessly—perhaps to warn themselves—when one man's greed becomes another's poison. A monumental story with this as theme is about to be told the world.

It will require one, perhaps two years in the telling. It will summon 352 prosecution witnesses alone. and 14 judges to hear them. The lines of its plot radiate from a small German town to the United States, Canada, England, Italy, Australia, Brazil, Japan—23 countries in all. Now, 11 years after these lines fanned out, they have doubled back upon this small town and enveloped nine men whose acts, say accusers everywhere, were responsible for their despair. When Josef Havertz, the mournful-eyed prosecutor, reads out his indictment on May 27 to 600 participants and press gathered in a rented casino near Aachen, on the western edge of Germany, he will be voicing the rage of thousands of people whose lives, they say, were laid waste by a pill. This is what he will charge:

That these nine men were so eager to market a sleep-inducing drug of their discovery that they failed to test it properly.

That they sold this drug in Germany and to licensees throughout the world with assurances that it was safe when no such assurances existed.

That this drug caused thousands of its users to prickle, perspire, tremble, vomit, become giddy and, in some cases, lose feeling in their extremities so completely that they would topple to the ground.

That these men first disregarded or made light of such reports; that they lied to doctors who questioned them; that when the reports became too numerous to ignore, the defendants did everything they could to suppress them and—with money—encourage the production of other reports that were favorable.

That this drug, called thalidomide, advertised as safe even for pregnant women, did finally cause the birth of 7,000 monster babies throughout the world, some of whom died, some of whom were killed and most of whom now live maimed lives.

The nine defendants—the owner, six present and two past employees of Chemie Grünenthal of Stolberg, Germany—will deny these charges. They will contend that they acted promptly and responsibly when the side effects of their drug first appeared. And they will challenge outright an assumption shared almost universally since those frantic, explosive weeks in November, 1961, when the epidemic of deformities around the world was traced to their firm—that thalidomide caused these deformities at all.

German law requires the prosecutor to guard the rights of the accused as well as their accusers. Should the arguments of the accused have merit, he must modify his charge. Prosecutor Havertz has studied these arguments but held to his charge. Since 1962, he has been gathering evidence whose dimensions befit the trial's scope: 70,000 pages of testimony from 1,200 witnesses, bound now into 259 volumes that line a long office wall. For two years, Havertz worked alone; since then, he has been helped by two assistant prosecutors, seven detectives and, wherever possible, by attorneys representing damaged and deformed victims from all over the world, whose own legal proceedings turn ultimately on the innocence or guilt of the Germans. The funnel for much of this assistance has been a combative Stockholm attorney named Henning Sjöström, who represents the parents of deformed Swedish children.

Much of the prosecution's case rests on the company's private records, which Havertz says were volunteered, but the company says were seized. Pieced together, they reveal, in the accused's own words, what the prosecution calls a crime.

Stolberg is a town of 40,000 set in open, rolling country, where forests are small and scattered, and, from any hilltop, you can count the factory chimneys—the biggest of which belongs to Dalli-Werke Mäurer & Wirtz, a manufacturer of soaps, detergents and beauty preparations. In 1946, the company formed a subsidiary, Chemie Grünenthal, and headquartered it in a dream of an Old World building, an abandoned copper foundry built by Reformation Protestants. The big fieldstones had been cleaned, and the rooftops blackened, and the windows trimmed in white. Ivy climbed the walls, and laurel and rhododendron grew thick in the court. If Chemie Grünenthal was physically an attractive place to work, for key performers, it was financially attractive too. Their earnings were tied directly to revenues; a small annual salary could soar if the company had a good year.

At first, Chemie Grüenthal produced antibiotics almost exclusively, and nothing eventful occurred. But in 1954, two laboratory doctors discovered a hypnotic they called thalidomide.

No one could figure out why, but thalidomide possessed one enormously appealing characteristic: it could not kill. Experiments with animals failed to isolate the killing dose, not even when doses were massive. Nor, as it would later develop, would an overdose kill a human.

Following its test on animals, Grünenthal offered samples for doctors' use. Most doctors' initial reports were highly favorable. The drug produced prolonged and comfortable sleep.

There were qualifications, however. Doctors who praised the drug had not offered substantiating evidence. Then, too, many of the tests had been made on outpatients—a poor sample for testing. On November 13, 1956, Klaus Winandi, a former prisoner of war and now works manager of Chemie Grünenthal, noted these weak points in a memorandum to the company's products-department director, Heinrich Mückter.

There was a third cautionary note. Not all the doctors had praised the drug. One of them had given Contergan—the marketing name for thalidomide—to 100 patients; a number of the patients had experienced giddiness; constipation, drops in temperature, noises in their ears, trembling of the limbs. Another doctor had received similar reports, as well as complaints of agitation and habituation; this doctor recommended that the drug be passed to the head of his clinic for a long period of testing.

But Grünenthal did not follow that suggestion. All drugs produce side effects of one kind or another in a certain number of users. The tolerable percentage depends on the value of the drug; a miracle drug that bothers ten percent of its users but cures the other 90 percent is considered tolerable. A hypnotic that produced comfortable sleep in 99 percent of users and side effects in less than one percent seemed tolerable to the men at Grünenthal.

Dr. Mückter was eager to market thalidomide. Management had given him a one percent commission on sales of his laboratory's products. Between 1952 and 1962, Mückter's salary remained at $3,500 a year. But his commission for 1956 was $33,000. A "safe" sleeping pill might appreciably enlarge even that—which, in fact, it did. Thanks to Contergan, Mückter's 1961 commission would total $81,000.

Late in June, 1957, Dr. Mückter and works manager Winandi agreed that when the product was sold, they should "make a special point of the excellent way the body tolerated the substance." A general memorandum of Septembr 26, 1957, established the key phrase to be used: "Sure to work . . . harmless . . . completely nonpoisonous."

Of these assertions, the prosecutor says now:

"This sales talk ignored the fact—universally recognized in pharmacology—that as it is only possible within very narrow limitations to apply to human beings findings obtained in animal experimentation, that no amount of experiments conducted on any number of animals of different kinds, conducted with precision over a long space of time and with positive results, can entitle a manufacturer to speak of 'guaranteed nontoxicity' and 'harmlessness' for human beings; that in the pharmacological experiments carried out up to then with K 17 [the code name for thalidomide], not all the possibilities of animal experimentation were carried out; that Contergan represented a new substance of which not only the effective mechanism was unknown but in connection with which a number of other questions still awaited clarification; that the not particularly extensive, not particularly convincing, clinical trials, although they had been in general satisfactory, still left many questions unanswered and had also given rise to misgivings as to toleration; that the history of chemistry and pharmacy contains a trace of substances which were originally regarded as harmless and free from appreciable secondary effects but which were later found to be harmful after they had been on the market for a considerable time."

Contergan went on sale in Germany on October 1, 1957. Eventually, it would be sold by licensees in 11 European, 7 African, 17 Asiatic and 11 Western Hemisphere countries.

Grünenthal's publicity campaign for Contergan in 1958 was massive: 50 advertisements in medical journals; 200,000 letters to doctors; three "therapeutic circulars," each sent to more than 50,000 doctors and chemists. What caught everyone's eye—and disturbed many doctors—were the phrases "completely harmless" and "absolutely noninjurious." One doctor protested vigorously to the company:

"Thalidomide cannot be assessed by hypothesis."

The public was not so skeptical. A "safe" sleeping pill? This, indeed, was news. It could encourage users to drop their old sleeping potions in favor of this new drug they could take without fear—and this, in fact, is what slowly began to happen.

But reports of problems continued. On August 2, 1958, Grünenthal's sales representative in Frankfurt sent a note to Winandi: "I have been asked to report side effects of Contergan," he wrote. "One doctor has already stopped prescribing it." Not long thereafter, another doctor wrote directly to complain that older patients to whom he had given Contergan had suffered giddiness and a slight disturbance of balance. This time, Dr. Günther Sievers, an expansive young physician hired by Grünenthal in 1955 to deal with doctors and pharmacists, replied: "We must say that this is the first time that such side effects have been reported to us, if, as far as we can understand, it is the fault of Contergan."

Grünenthal, meanwhile, had been developing some positive material for its drug. Pregnant women are often poor sleepers and potentially heavy users of sleep-inducers. A gynecologist hired by Grünenthal, Dr. Augustin Blasiu of Munich, had tried Contergan on 370 patients. They had slept well. There had been no side effects. Early in 1958, Dr. Blasiu had published his findings in a medical journal. Now, Grünenthal mailed excerpts of the article to 40,000 doctors and added a covering letter of its own.

"Dear Doctors," it began. "In pregnancy and during birth, the feminine organism is under great strain. Sleeplessness, unrest and tension are constant complaints. The prescription of a sedative and hypnotic that will hurt neither mother nor child is therefore often necessary. Blasiu has given many patients in his gynecological department and in his obstetrical practice Contergan and Contergan Forte. . . ."

Grünenthal's covering letter had one dreadful flaw: its critical portions weren't

true. In a statement to authorities on June 5, 1954, Blasiu testified:

"I want to emphasize that the patients took Contergan for the most eight to ten days. Never was this drug prescribed for pregnant women. It is my absolute principle never to give sleeping pills or tranquilizers to mothers-to-be. It is an old fact in medicine that, basically, no barbiturates, opiates, sedatives or hypnotics should be given to mothers-to-be because these drugs can affect the fetus. . . . In my publication of May 2, 1958, I say only that I gave Contergan to nursing mothers and operation cases. There is no word of my giving this medicament to pregnant women."

But the problem of the moment was not Contergan and pregnancy; it was Contergan and side effects. In a confidential report to its medical-detail men, February 1, 1959, the firm acknowledged that 100-milligram tablets had given hangovers to middle-aged users. "Diplomacy is in place here, so that we say nothing negative about our own product," the memo noted. The Grünenthal men agreed to recommend smaller doses according to age.

Soon, little qualifiers began to slip into company literature. Normal doses produced no side effects. Individual doses could not produce side effects in middle-aged patients. Even high doses would not damage the kidney or liver.

But the new director of clinical tests for Grünenthal, a Dr. Michael, was not so sure. In his monthly report for February, 1959, he wrote: "The important question of the influence of K 17 on the function of the liver has unfortunately not yet been worked on." The firm was then already putting several thalidomide products on the market, but the following month, Dr. Michael noted unhappily: "It is not possible to use Contergan as a basis for a number of combinations without being able to say enough about the substance itself. Therefore, I am of the opinion that Contergan has not been clinically tested enough."

Each month brought fresh reports of side effects. The medical superintendent of a Cologne hospital said he had taken Contergan Forte daily for seven months and had developed symptoms in the hands and feet that another doctor had diagnosed as "probably polyneuritis." Had the firm any knowledge of nerve damage after prolonged use of Contergan?

Grünenthal replied: ". . . we can state . . . that no reports of this kind have hitherto been received by us, although Contergan has been used in constantly increasing quantities for several years past."

Late in August, the Basel firm of Pharmakolor AG, which was associated with Grünenthal, sent Grünenthal a disquieting letter: "We have about 20 well-known doctors who have told our representatives that either they themselves or their patients, having taken one whole tablet of Softenon Forte [the trade name in Switzerland], the next morning suffered from considerable sickness, involuntary tremors, etc. Professor Ludwig, head of the second medical department at Burgers Hospital, Basel, told me he gave his wife one tablet. He said, 'Once and never again. This is a terrible drug.'"

On October 3, a neurologist named Ralf Voss informed Grünenthal that he had observed a case of nervous paralysis in an elderly patient who had taken thalidomide. Could thalidomide possibly lead to damage of the peripheral nervous system?

Grünenthal replied, "Happily, we can say to you that such results have never come to our notice. . . ."

In November, Grünenthal sent a letter to 55,934 doctors; it stressed the "excellent tolerability of thalidomide, particularly in the elderly."

That month, Dr. Voss told Grünenthal's representative he had now diagnosed polyneuritis in three of his patients, all of whom had been taking Contergan regularly for a year. Dr. Sievers replied by letter: "We have to inform you that your patients represent cases 4–6 of which we have so far heard, although in the case of the three previous patients, the precise reason could not be ascertained."

At year's end, one of the company's medical representatives reported that a doctor she had visited had diagnosed paresthesia, a mild form of nervous disorder, after Contergan. Dr. Gotthold Werner, who headed Grünenthal's medical-scientific department, and Dr. Sievers replied jointly: "We consider any cause or relationship between the reported symptoms and Contergan as improbable, also since we have never heard or seen anything of this kind hitherto."

During 1960, Contergan and Contergan Forte took over leadership in Chemie Grünenthal's over-the-counter sales. Parents were even using the drug as a "baby-sitter." One fear began to grip the men of Grünenthal—the possibility that Contergan might be put on prescription, and sales thereby diminished. In its report for April, 1960, the sales department noted: "Unfortunately, we are now receiving increasingly strong reports on the side effects of this preparation, as well as letters from doctors and chemists who want to put this on prescription. From our side, everything must be done to avoid putting it on prescription, since already a substantial amount of our turnover comes from over-the-counter sales."

Meanwhile, Grünenthal representatives were trying to obtain positive medical testimony for their product. On March 30, one representative reported that initial attempts with a doctor in Iran had been unsuccessful. "However, since the Iranian doctor is very materialistic in his outlook, concrete results should be forthcoming soon." A report from Spain noted that a doctor closely connected to the firm's outlet there "was prepared to write a short concise report on Noctosediv [the brand name in Spain] and would leave it to us to revise the final draft." It was understood that "it need not necessarily be a highly qualified piece of scientific work, but primarily a few chance statistics printed along with a suitable summary. . . ."

Grünenthal stressed this point again in a later letter to its licensee in Madrid. "We want to find a second tester for Noctosediv," the firm wrote—and spelled out what was needed to secure registration: "A quick publication . . . even if the content presents no great revelations, rather than works of high scientific content that would take months or even years."

In April, 1960, Grünenthal received its third complaint from Dr. Voss. He now had five patients who had taken Contergan or Contergan Forte for more than a year and wound up with grave side effects; he intended to make his views known at a postgraduate meeting of neurologists on April 30.

By September, a note of anxiety had crept into company records. Dr. Michael's monthly report noted that Contergan polyneuritis was being talked about freely in medical circles. "Sooner or later, we will not be able to stop publication on the side effects of Contergan. We are therefore anxious to get as many positive pieces of work as possible."

By October, the prophecy seemed about to be fulfilled. A Frankfurt physician named Horst Frenkel had first complained to the firm in 1959 that the drug produced side effects, and had been gathering evidence since. Now, he intended to publish. On October 29, Drs. Sievers and Heinz Kelling, the company's liaison chief, paid him a visit. Frenkel brought in his medical superintendent. The men from Chemie Grünenthal asked the two neurologists to collaborate with their firm and to withdraw the article Dr. Frenkel had sent to *Medizinische Welt* (*Medical World*). Frenkel declined. He had already observed 20 cases of nerve damage in which Contergan had been the cause, he said, and such cases should not be hidden.

Now, Grünenthal officially decided to recognize the problem. It incorporated a new qualifying paragraph in the directions for use: "As with almost all drugs, patients with special dispositions may become hypersensitive after longer or shorter periods of use. Trembling and irritation of the hands and feet may occur suddenly, but as soon as use is discontinued, such allergic reactions will subside."

The amended directions for use bore a coded printer's mark, "0960," meaning the order to print had been given in September, 1960. Dr. Sievers made a point of this in a letter written December 23 to a doctor he had visited in November:

"Since I unfortunately did get somewhat the impression that you were not quite sure whether we were genuine in our efforts to explain the side effects scientifically, I am sending you enclosed a pack leaflet on Contergan which we have been inserting since the end of September in all our packs."

Investigators would learn later that the order had actually gone to the printers on November 2.

By this time, moreover, it was evident that the Grünenthal men themselves, though publicly attributing the reactions to allergies, had some private uncertainties. "Whether the hypotheses we have put forward in this connection are correct, only the future will show," Dr. Sievers wrote to his colleagues on December 6, 1960.

The search for positive publications went on. One woman doctor who had done work for Chemie Grünenthal published a favorable article in *Medizinische Welt*, edited by Dr. Paul Matis. "The particular advantages of Contergan reside in its atoxicity and in the lack of side effects even after long use," she noted. The critical article by Dr. Frenkel, submitted months earlier to the same magazine, had not yet been scheduled. In his annual report, Dr. Kelling gratefully noted why: "The friendly connection to Dr. Matis has positively contributed to a delay in the treatment of the submitted manuscript."

At year's end, the sales office, reporting that rivals had started "to exploit the tiny number of side effects and to exaggerate them," assured management that "everything is being done to protect this apple of our eye." The firm's representative in Bonn also wrote optimistically about his visits to pharmacists: ". . . apparently my happy laughter and appropriate references to the completely harmless properties of this preparation were successful in putting the often-worried pharmacists' hearts at rest."

Sales and complaints mounted together. Volume in January of 1961 was $400,000. But by February, there were 400 reports of nerve damage from more than 100 doctors and chemists.

In February, Grüenthal had good news from Paracelsia, its Portuguese licensee. The application to market the drug had finally gone before the Portuguese health authorities, and the authorities had provisionally approved. The Portuguese firm was particularly jubilant, ". . . since it was not at all easy to sprinkle sufficient science on the preparation to make the dish tasty."

Late in February, Dr. Hans Werner von Schrader-Beielstein, a young physician who had joined the firm in 1957 but whose authority on thalidomide questions was now substantial, admitted in a letter to Dr. Franz Wirtz, a nephew of the owner, that the company knew of 150 cases "in which polyneuritis allegedly occurred after the use of Contergan"; that careful investigations by Dr. Sievers had left "no other explanation" than Contergan as a cause; and that while complaints fade away, "in the case of some pa-

tients, it would appear that this takes quite a considerable time." He added: "We have already heard of these cases during the course of last year, and therefore, we are by no means unusually put out by the present situation."

Von Schrader-Beielstein informed Wirtz that Grünenthal's English distributor, Distillers Company (Biochemicals) Ltd., had reported suspicions that Contergan affected the spinal cord. "But we consider this very implausible," he noted.

On February 15, 1961, Grünenthal's constant critic, Dr. Voss, stepped before his fellow neurologists at the Medical Academy in Düsseldorf: "I have come to tell you about a new illness that I first came across in October, 1959." he began. "I have since found out that some of you have come across it too. It is about a picture of toxic polyneuritis after the long use of Contergan. I have diagnosed 14 cases in my practice. The illness begins with a numbness in the toes that usually is not noticed by the patient. This numbness spreads to the ball of the foot, then to the ankles and finally to the calves, maximally up to the knee. Many months later, hardly ever at the same time, numbness begins in the tips of the fingers."

To date, Dr. Voss noted, there was not a single case of recovery after the drug had been stopped.

Voss's lecture split the staff. The firm's commercial chief, Dr. Günter Nowel, was a meticulous man who recorded all his encounters and complaints—including a protest against a ban on coffee-making in the office—on a set of filing cards. "Everyone here lost their heads," he wrote this time. "Winandi wanted immediately to put it on prescription. There was no uniform policy any more. I wanted to wait and see. One minute, they were making light of the side effects . . . the next, exaggeration!"

On February 21, the firm's representative in Cologne, Dr. Johann Goeden, visited a nerve clinic there. On February 23, he reported:

"I took the opportunity of explaining our standpoint in regard to the problem of polyneuritis in connection with Contergan, and I did my best to foster confusion on this subject," Goeden's remark was in character. A few months earlier, he had suggested in a letter to management that Contergan be used in connection with other sedatives: ". . . if it proves impossible to keep things dark or to ward off attacks, any alleged side effects could then be attributed to the other preparations used. But heaven help us should this expediency turn into a boomerang!"

Later in February, the National Drug Company (a division of Richardson-Merrell, Inc., the U.S. licensee) sent a query to Grünenthal: Had the Germans investigated the use of Contergan during pregnancy? Von Schrader-Beielstein replied: "On the question of Contergan and pregnancy, particularly passing of the placenta, we do not possess our own experiences. So far, our experiences in gynecology are in Blasiu's work, and in the coming year, will be added to in a second work. Animal experiments on the question of influence of Contergan on the fetus are perhaps very necessary, although, after all that we know so far from our animal experiments, we would not like to say that it comes to a disturbance of the fetus."

In March, another 90 doctors and pharmacists reported side effects after thalidomide. By now, Grünenthal had 200 complaints from doctors and 600 reported cases of nerve damage. On March 6, Drs. Werner and Sievers wrote to a doctor in Bonn: "All our investigations to date make any comparison with toxic nerve damage appear impossible."

In its monthly report for April, the firm stated: "We will have to reckon with more intensive problems as those unfavorable publications already known to us, and some still to come, are published. Measures to control the situation have been taken. Preparations for the application to put Contergan under prescription were made. . . . It is necessary to employ several first-class doctors in customer relations. Steps toward this have been taken under the motto: 'It must succeed, whatever the cost.'"

One of these controlling measures was an ever-more-intensive effort to secure favorable publications. A major work came now from an old friend of Dr. Sievers, Franz-Josef Michael Winzenried, a professor at the psychiatric clinic of Hamburg University. Early in 1961, Professor Winzenried had agreed to attend a doctors convention in Montreal, where he would discuss his successful use of Contergan. On the strength of this, Grünenthal had obtained $1,000 from its American licensee to help defray Winzenried's "financial assistance" of $2,500. Now, Winzenried's views on Contergan were published in the June 16, 1961, issue of *Medizinische Klinik* (*Medical Clinic*).

Winzenried made much of the preparation's "atoxicity," proved, he said, by the case of a 40-year-old woman who had attempted suicide by taking 140 Contergan tablets. "The patient slept deeply for ten hours," he wrote, "and then remained for a further six hours in a state of light somnolence. There were no disturbances to respiration or to the circulation." Actually, doctors had pumped her stomach and administered stimulants. The figure of 140 tablets was her own and went unchecked.

Winzenried said that the Contergan compounds had been used during a three-year period with excellent results. Two hundred patients had been given Contergan nightly for more than a year. Alergic symptoms had been noted in 11 patients; not one of the 200 had suffered neurological disturbances. But one of Winzenried's colleagues told authorities at this time that the clinic had interrupted the Contergan doses every four to six weeks. However, it was Winzenried himself, testifying under oath to investigators, who provided the poignant note. They asked him if he himself had ever taken Contergan. He had, once, he replied, while writing the article in question. But the following morning, his skin itched, and he was constipated, and so he never again took Contergan. Its use in his clinic was henceforth reserved for cases of severe sleeplessness.

The day following publication, Professor Winzenried told the authorities, he observed his first case of "Contergan polyneuritis." By the end of August, 1961, he had seen several, and so reported to Grünenthal—which continued, nonetheless, to circulate reprints of his article.

The problem of side effects dogged the firm in ever more varied ways.

Dr. Wirtz, the owner's nephew, reported to the home office in May that Richardson-Merrell, Inc. was upset. Not only was the firm's application for approval being held up in Washington; the United States Food and Drug Administration had learned by itself, rather than from Richardson-Merrell, about reports from England of side effects. "It would appear that during the last visit of the people from Merrell, you were very successful in convincing them about the lack of danger in connection with this product," Wirtz wrote Von Schrader-Beielstein. Assurances, Wirtz proposed, should be renewed: "Naturally, any information sent to Merrell should be put in such a way as if, during the very last weeks, you have virtually been working day and night in order to obtain these results."

Dr. Von Schrader-Beielstein replied: "Our situation, over and against Merrell toward the beginning of the year, was determined by the fact that no official letters should be sent . . . in which any reference was made to any, in any form whatsoever, polyneuritic or any other sensitive side effects. This is fully in accordance with your letter of the beginning of February, in which you stated at the time that the FDA authorization was expected any day, and that you would not recommend, at this time, to go more deeply into the question of side effects."

From 1959 on, the firm had received mounting reports of nerve damage to children who had either taken Contergan inadvertently or been given it by their parents. In its replies to inquiries, however, the company maintained such reports did not exist. To the chief physician of a children's clinic in Bad Dürrheim, it wrote on June 2, 1961: "For children and youths, there is so far no known case of reaction."

Grünenthal's management had already been advised by its insurance agents, the Gerling Company, that it faced the possibility of lawsuits. A second discussion was held in June. A confidential report of the meeting noted:

"With our consent, Dr. Huber [of Gerling] had gone on June 9 to see Professor Scheid, who has long been one of Gerling's expert advisers. Professor Scheid's opinion was: 'Cases of damage by thalidomide occur regularly. The damage is irreversible. The directions for use sent out with thalidomide are absolutely inadequate. They explain too little and make no mention of the degree of severity of the damage that can be caused.' According to Professor Scheid's opinion, thalidomide should in no event be taken for longer than three weeks. This should be stated in the direction for use."

By the end of May, the number of complaints of polyneuritis attributed to Contergan from doctors and chemists had risen to 1,300. The company continued to blame "other causes." Meanwhile, its sales in that month had dropped to $340,000.

During the month, one of the company's medical salesmen estimated to headquarters that the introduction of compulsory prescription would cause a drop of at least 50 percent in Contergan's turnover. "For me, as a businessman, such as I always remain besides my medical activity, this is sufficient reason for selling Contergan . . . as much as possible. In my opinion, the Central Office should allow a further discount of 10–15 percent for large orders of Contergan. In such cases, I always make sure that the chemist will remain absolutely silent. If the matter is handled carefully, this can be fixed. It is only in such cases that I will then take orders."

But other empoyees were deeply troubled. Grünenthal's clinical-research director, Dr. Michael, bared his heart to management on May 10:

"I personally maintain the point of view that there is now no longer any doubt that, under certain circumstances, which I am unable at the present moment to understand or explain, Contergan can cause the nervous injuries described. I am convinced that all those who are in the firm with us must also subscribe to this view. . . . I consider it to be simply impossible that the firm should officially adopt the standpoint that these reports are exclusively a matter of unqualified polemics. . . ."

A few months earlier, the firm's representatives, Dr. Nowel, among them, had visited the health department of the state Ministry of the Interior in Düsseldorf. To Dr. Hans Tombergs, the Privy Councilor, they had explained that they might like to see Contergan put on prescription, lest sales of the drug get out of hand. Dr. Tombergs had been cordial and receptive. Now, on June 8, Dr. Nowel called on Dr. Tombergs again. This time, Nowel could feel the chill. Grünenthal had withheld information from him, Dr. Tombergs said. The company had been informed in December, 1959, by Dr. Voss that thalidomide produced side effects, but had never informed him. Furthermore, the company's circulars were in direct contradiction to the reports of doctors.

For an hour, Nowel tried to soothe Tombergs. He steered the talk to other matters some of them even private. Finally, gingerly, he returned to the subject. Grünen-

thal, he assured Tombergs, had received no correspondence from Dr. Voss until autumn, 1960.

Nowell was badly upset by the conversation. He returned to Grünenthal and made a surreptitious inspection of the records. Then, shaken, he sat down and wrote an angry letter to his superiors: "Regrettable result! Really, correspondence regarding thalidomide has taken place during October-December, 1959. In this first letter of Dr. Voss, he has pointed out that nerve damages have been observed in patients after the use of thalidomide during a longer period. Result: Such an incomplete direction to coworkers who are responsible for the negotiations with the ministry lead not only to the undermining of the good name of the firm but also the co-workers."

Nowell was so aroused he also complained directly to his superior, Dr. Hermann Leufgens. Said Leufgens: "This is not a question of a representative's good name. It is a question solely of the firm."

Finally, Nowell made an entry on his filing cards: "We are more than to blame."

Now, in quick succession, came several seemingly innocuous events that, in later years, would haunt the company.

A doctor in Heilbronn asked whether Contergan could be used safely in preparation for a Caesarean. Werner and Sievers replied: "On the grounds of our discoveries so far, we would like to say that there is no evidence that Contergan reaches the fetus through the placenta."

Earlier in 1961, a letter had arrived from Singapore. A Dr. Davin Chou informed the company that he had used thalidomide with success on pregnant women. There were no other details. On this sparse basis, Dr. Werner now posted a circular letter to Grünenthal co-workers throughout the world. It said: "In a private clinic in Singapore, Softenon was given to pregnant women who tolerated the preparation extremely well and in whom the desired effect was quick and sure. He added, "We suppose that this brief report about Dr. Chou will be of great interest at least to you, as it emphasizes again the splendid tolerability of our preparation. We would be grateful for similar brief reports, and you can be assured that we will read any news from you most thoroughly."

Another inquiry about Contergan and pregnancy came now from Finland—this one from the company's representative there, who informed headquarters that she had been asked three questions by a Finnish doctor:

1. When thalidomide is given to women patients, does it pass to the placenta?

2. Can the preparation have a harmful effect on the child in the event of it getting to the embryo via the placenta?

3. In what part of the organism is thalidomide broken down?

Dr. Mückter answered underneath each question:

1. Not known.

2. Unlikely.

3. Probably in the liver.

A few weeks later, Dr. Werner wrote a note to Von Schrader-Beielstein on a copy of the same letter:

"Is there any research going on into the above questions on the part of our licensed partners?"

Von Schrader-Beielstein answered: "No."

The questions regarding possible effect on the fetus prompted several members of the Grünenthal staff to wonder whether they shouldn't initiate some research—particularly since the firm would soon be hiring a man highly qualified in this field. A few months later, the staff recommended a project to the board of directors. But the board turned them down.

Bad news continued. The legal department sent a long and gloomy memo to company officials:

"We must reckon that sympathy will not be with a huge firm with a turnover of millions, but, rather, with a relatively helpless, harmed patient."

The department recalled that, following Dr. Voss's first lecture in April, 1960, it had distributed a circular to sales people and scientific colleagues in which the problem of side effects had been considered, and in which it was urged that the company advise against continual medication on medical grounds. ("A clever way of saying this must be chosen to prevent 'the baby being let out with the bath water,' " the circular had stated.) Said the lawyers:

"This will hardly explain why we did not undertake to alter the directions for use. The directions for use said then and until September, 1960: sure to work, taste-free and unpoisonous. It is clear that we are responsible because of the omission of any warning in the directions for use if a patient, in the time from May to September, 1960, took Contergan and developed polyneuritis. . . . At the latest, after Dr. Voss's paper and the congress of doctors in Wiesbaden, we should have taken up the clear evidence from the numbers of doctors who thought that polyneuritis resulted after the long use of Contergan."

The legal department then recommended that Grünenthal attempt to settle all claims out of court.

A mood of defeatism now seized Dr. Mückter. On July 14, 1961, he startled his colleagues with a dire warning: "If I was a physician, I would not prescribe thalidomide now. Gentlemen, I warn you. I won't repeat what has already been said beforehand. I see a very great danger."

Others at Grünenthal remained convinced that salvation lay in the acquisition of professional endorsements. On August 1, Dr. Michael tried to obtain one from Dr. Max Engelmeier, a lecturer on nervous disorders at the University of Münster. Dr. Engelmeier refused. He'd already had experience with Contergan polyneuritis, he said. Discouraged, Michael reported to his superior: "It's obvious that money alone will get us nowhere."

August 16—another doleful legal memo:

"According to German law, it is the manufacturer who is responsible for the product, not the authorities who have to put it on prescription. If a product that openly damages health is not for any reason put onto prescription, then the manufacturer takes full responsibility and is liable for damages. . . . Therefore, one cannot warn too emphatically anyone in 'the house' who has contributed to the situation that he must be regarded as the perpetrator of, or accessory to, potential physical hurt. . . . It must be regretted that we have come to this situation. If we had taken the advice given both orally and in writing and put it on prescription and altered the directions for use earlier, we would not be in such a dangerous and, for the renown of our firm, unpleasant situation."

Toward the end of summer, Contergan was put on prescription by health authorities in a number of German provinces. Salesmen reported a positive reaction by doctors to this step. As fall began, a feeling grew at Chemie Grünenthal that perhaps the worst had passed.

November brought the nightmare.

On November 15, the chief doctor at the University Clinic for Children in Hamburg, Dr. Widukind Lenz, telephoned Dr. Mückter at Grünenthal. The company, he said, must withdraw Contergan from sale at once. His investigations had convinced him that thalidomide had been responsible for the birth of many deformed German babies.

Dr. Mückter said he had never heard such a suggestion before. He told Dr. Lenz he would send someone to see him in a few days. Dr. Lenz told Dr. Mückter he found his lack of concern astonishing.

The next day, "to relieve myself of responsibility," Lenz set down his facts in a letter to the firm:

"Since about 1957, a certain type of deformity has occurred in Western Germany with increasing frequency. It is a matter, in the first place, of serious defects in the limbs, especially the arms, which are usually mere stumps with two to four fingers, or none at all. These malformations of the arms are in part combined with serious leg defects; also, with absence of the outer ear, closure of the auditory passages, heart trouble and blocking of the esophagus. . . .

"Deformities of this kind, there have always been—but their incidence has been certainly less than one in 50,000, probably less than one in 100,000. During 1959, 1960 and 1961, the increase in the number of deformities of the type described has been so marked that it has been noticed in numerous places. . . . Last year, one or two out of every 1,000 infants born in Hamburg were deformed in this way. . . . A very intensive search in Hamburg for any factor that could possibly be associated with the occurrence of these deformities has led to the discovery of one single factor regularly present in these cases. In each of 14 cases of which I have had a reliable account, with a complete statement of medicines prescribed, thalidomide has been taken during the early months of pregnancy. . . ."

On the morning of November 20, Drs. Michael, Von Schrader-Beielstein, and a third Grünenthal man called on Lenz. Since they had not informed Lenz exactly when they would arrive, he had not arranged for a witness. He was afraid to talk alone. Lenz suggested that the Grünenthal representatives join him that afternoon at a meeting with health authorities in Hamburg. They agreed.

The meeting began at 2:30 p.m. Dr. Lenz showed his documentation to everyone present. One of the government officials expressed his surprise at the "aggressive" manner in which the Grünenthal representatives questioned Lenz. They told the doctor, according to his later testimony, that an unjustified attack on their firm could provoke legal action. On several occasions, they referred to "behavior damaging to our business" and "murder of a preparation by rumor." As the meeting ended at 6 p.m., the health authorities asked the Grünenthal representatives if they intended to remove Contergan from the market. They answered no.

That day, Chemie Grünenthal put 66,957 copies of a circular dated November 14 into the mail. "Contergan is a safe medicine . . . ." it stated. Its "relatively rare side effects . . . should be outweighted by the advantages of the product."

Another meeting of the disputants was scheduled for November 24 at the Ministry of the Interior. The Grünenthal representatives, Dr. Nowel and Dr. Von Schrader-Beielstein, arrived first. The health authorities, Dr. Tombergs included, urged them to withdraw Contergan from the market. They refused.

Then Dr. Lenz arrived. With him was an attorney named Karl-Hermann Schulte-Hillen. Von Schrader-Beielstein asked if he was there to represent the doctor, No, Schulte-Hillen replied, he was representing himself. He had a deformed child. Von Schrader-Beielstein demanded that he leave the meeting. The health authorities acceded. Overcome, Schulte-Hillen bolted from the room. Dr. Tombergs rushed after him; outside the conference room, he calmed the attorney, then explained that they must proceed cautiously because Chemie Grünenthal was threatening everyone with lawsuits.

Tombergs returned. Once more, Dr. Lenz went through his evidence, and once more, the Grünenthal representatives refused to withdraw the drug. Instead, they attacked the quality of Lenz's proofs. The talk was hard, cutting.

Later, privately, the Grünenthal men conferred with the home office. When the meet-

ing resumed after lunch, they asked Lenz to leave the room so that they might discuss a company proposal with the officials. Lenz acceded reluctantly. Then they explained the proposal: Grünenthal would attach stickers to all Contergan packets, warning that the drug should not be taken by pregnant women. Doctors and pharmacists would be warned directly. That was as far as they were prepared to go, Von Schrader-Beielstein declared, and, his own voice rising, returned to his attack on Lenz. Lenz, raging, burst into the room. He had heard every word, he shouted. He would not permit his evidence to be discussed without him.

For the last time, the ministry officials told the Grünenthal men that withdrawal of Contergan from the market was the "best solution." For the last time, the Grünenthal men refused—adding that they would hold the Ministry of the Interior responsible for any damages that might occur.

That day, a letter reached Grünenthal from Distillers, the English distributors. An Australian doctor had informed them of six cases of deformed births—with thalidomide as the one common factor.

The next day, Von Schrader-Beielstein reported to the firm. Reluctantly, he said, he thought they should withdraw the drug. Dr. Mückter disagreed—in spite of the report from England, about which he now informed the others. When they protested, Dr. Mückter said he would take the responsibility.

On Sunday, November 26, 1961, a German newspaper published reports of Dr. Lenz's suspicions. That day, the company's directors met hastily and agreed to withdraw the pill. Publicity, they said, had removed "the basic of scientific discussion."

On Monday, May 27, 1968, the prosecutor will state: "The damage caused by thalidomide could have been largely avoided if the defendants had not advocated the use of the preparation unsupported by test findings, if they had drawn the necessary conclusions from the evidence that later came to light regarding the unreliability of the preparation, and if, finally, they had listened to the warning voices of third parties." The charges: Intent to commit bodily harm. Involuntary manslaughter.

THE GREEN FINGERS PROGRAM

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, on behalf of the distinguished senior Senator from Oregon [Mr. MORSE], to have printed in the RECORD a statement by Senator MORSE in connection with a parade and groundbreaking ceremony relative to the green fingers program, and, in connection therewith, a brief article entitled "Prospectus," published by the Rainmakers, of Portland, Oreg.

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

STATEMENT OF SENATOR MORSE

On May 18, 1968, I had the pleasure of participating in a parade and groundbreaking ceremonies in connection with the Green Fingers program.

The Green Fingers program is a community project in Portland, Oregon, which has been initiated by the following area organizations: Garden Clubs, 4-H Clubs, Key Club of Jefferson High School, Albina Taxpayers and Civic Association and YMCA—North Branch.

This program is specifically directed towards low income residents and juveniles in the Albina area. It provides for the growing of vegetables during the coming summer on vacant lots in the Albina area. This will supplement the high starch diet of the low income families in the area. Current welfare food supplement allowance is based on 1953 food prices. Considering the price of green vegetables, this program will fulfill a need not currently covered by any City, State or Federal program or service.

Over 250 juveniles and adults have signed up for this program. Arrangements are being concluded with the State Highway Department for the use of approximately 200,000 square feet of land which was obtained for the Fremont Bridge and Minnesota Freeway approaches and connections. This property has been made available in the interim prior to commencement of construction, probably in 1969. Such utilization of this property will result in savings to the Highway Department and to the State by eliminating weed control and grass cutting this summer.

Support of this project has been unanimous with every group or individual contacted. Editorial support from both Portland newspapers has been assured.

This is a self-help program. It is a constructive program of activity for the younger people who are not able to secure jobs and is a deterrent against juvenile delinquency, crime and riot. The economic and social aspects of the program will produce positive tangible results.

The slogan of the project is "Help Each Other to Help Ourselves."

Heavy equipment and personnel from the Oregon National Guard have cleared the site, and the Lilly Seed Company has agreed to provide the seed and plants necessary for the project.

An organization known as the Portland Rainmakers have agreed to underwrite the cost of the water for this project, and to help raise the money to pay for the water, the Rainmakers have offered "stock" at the price of one cent per share for a minimum of one hundred shares.

[From Rainmakers, Portland, Oreg.]

PROSPECTUS

Have you ever bought any worthless stock? Or, have you ever contributed to a worthy cause? Well now the Portland Rainmakers offer the opportunity to do both at one time. The Rainmakers are going to underwrite the entire cost of the water for project "Green-Fingers". This is a self help program to enable approximately 250 families to grow gardens in the Albina area. This program is sponsored entirely by private groups without any government funds. To supplement the rain we produce each year, the Rainmakers need to buy a considerable amount of water. To raise this money we are offering for sale worthless stock entitling the bearer to absolutely nothing. Because this stock is not worth anything the price is very reasonable; only one cent per share for 100 share minimums. Worthless stock will retain its value. Use it for many worthless situations. Remember this stock is guaranteed by the Portland Rainmakers to be absolutely worthless (except for the good feeling you get when you help someone to help himself).

AUTHORITY FOR VICE PRESIDENT TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS DURING RECESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Vice President be authorized to sign duly enrolled bills and joint resolutions during the recess following the session of the Senate today.

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

ROUTINE BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there be at this time a period for the transaction of routine morning business, and that statements therein be limited to 3 minutes.

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

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

REPORT OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Deputy Director, National Aeronautics and Space Administration, transmitting, pursuant to law, a report listing certain information on new contracts negotiated (with an accompanying report); to the Committee on Aeronautics and Space Administration.

FINANCIAL ASSISTANCE FOR AIRPORT DEVELOPMENT

A letter from the Secretary, Department of Transportation, transmitting a draft of proposed legislation to authorize the Secretary of Transportation to plan and provide financial assistance for airport development, and other purposes (with accompanying papers); to the Committee on Commerce.

NEW MARITIME PROGRAM

A letter from the Secretary, Department of Transportation, transmitting a draft of proposed legislation to amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program (with accompanying papers); to the Committee on Commerce.

PROPOSED TAX EXEMPTION IN THE DISTRICT OF COLUMBIA FOR INTERNATIONAL TELECOMMUNICATIONS SATELLITE CONSORTIUM

A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to provide for the immunity from taxation in the District of Columbia in the case of a communications satellite system (with accompanying papers); to the Committee on the District of Columbia.

AIRWAY USER ACT OF 1968

A letter from the Secretary, Department of Transportation, transmitting a draft of proposed legislation to provide for the imposition of additional airway user charges and for other purposes (with accompanying papers); to the Committee on Finance.

DEFINITIONS OF WIDOW, WIDOWER, CHILD AND PARENT FOR SERVICEMEN'S GROUP LIFE INSURANCE PURPOSES

A letter from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to define the terms "widow, widower, child and parent," for servicemen's group life insurance purposes, (with an accompanying paper); to the Committee on Finance.

REPORTS OF THE FOREIGN-TRADES ZONES BOARD

A letter from the Secretary of Commerce, transmitting, pursuant to law, the Annual Report of the Foreign-Trade Zones Board for the fiscal year ended June 30, 1967, to-

gether with the reports covering the activities during the same period of Foreign-Trade Zones Nos. 1, 2, 3, 5, 7, 8, and 9, located respectively at New York, New Orleans, San Francisco, Seattle, Mayaguez, Toledo, and Honolulu (with accompanying reports); to the Committee on Finance.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report of the need to improve the management of aeronautical repair parts manufactured at Naval Air Stations, Department of the Navy, dated May 21, 1968 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report of a review of the community action program in Chicago, Ill., Office of Economic Opportunity, dated May 20, 1968 (with an accompanying report); to the Committee on Government Operations.

PROJECTS SELECTED FOR FUNDING UNDER WATER RESEARCH ACT OF 1964, AS AMENDED

A letter from the Secretary, Department of the Interior, transmitting, pursuant to law, 32 projects selected for funding through grants, contracts, and matching or other arrangements with educational institutions, private foundations, or other institutions and with private firms (with accompanying papers); to the Committee on Interior and Insular Affairs.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting temporary admission into the United States of certain aliens (with accompanying papers); to the Committee on the Judiciary.

VISITING SCIENTIST AND SCHOLAR PROGRAM

A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to amend title 5, United States Code, to establish a visiting scientists and scholar program in the Federal Government (with accompanying papers); to the Committee on Post Office and Civil Service.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the PRESIDING OFFICER:

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

"ASSEMBLY JOINT RESOLUTION 11

"Joint resolution relative to development of Trinidad Harbor

"Whereas, Feasibility studies concerning the construction of harbor facilities and development of the Trinidad Harbor as a harbor of refuge in Humboldt County are currently being conducted by the United States Army Corps of Engineers and by the Department of Harbors and Watercraft of the State of California; and

"Whereas, The Department of Harbors and Watercraft is urging action by the Corps of Engineers and has indicated that it will fully cooperate with the Corps of Engineers in the development of Trinidad Harbor; and

"Whereas, Trinidad Harbor serves a vital need for both the commercial fishing industry and for sport fishing enthusiasts; and

"Whereas, Development of Trinidad Harbor would not only greatly enhance its value for both the commercial fishing industry and sportsmen, it would afford a place of safe refuge for all members of the boating public who travel along the coast of northern California; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take whatever action is necessary to enable the development of Trinidad Harbor as a harbor of refuge at the earliest practicable date; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of the Army of the United States."

A resolution adopted by the Haebaru Village Assembly, Haebaru, Okinawa, praying for the return of Okinawa to Japan; to the Committee on Foreign Relations.

PETITIONS RELATING TO COMMUNIST ENEMIES

Mr. BENNETT presented petitions signed by sundry citizens of the United States, to have this administration stop, promptly and completely, giving aid in any form, directly or indirectly, to our Communist enemies, which were referred to the Committee on the Judiciary.

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. BIBLE (by request):

S. 3527. A bill to prohibit extortion, or the transmission of threats to persons or property, by means of telephone, telegraph, radio, oral, or written communications, or otherwise, in the District of Columbia; to the Committee on the District of Columbia.

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

By Mr. DODD:

S. 3528. A bill for the relief of George Nicolaides; to the Committee on the Judiciary.

By Mr. FULBRIGHT (by request):

S. 3529. A bill to amend the Foreign Service Act of 1946, as amended, and for other purposes; to the Committee on Foreign Relations.

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

By Mr. GORE:

S. 3530. A bill to provide for the establishment of a Commission on the Establishment of an African Institute for Cultural and Technical Interchange; to the Committee on Foreign Relations.

By Mr. BAKER (for himself and Mr. GORE):

S. 3531. A bill to provide for the striking of medals in commemoration of the 150th anniversary of the founding of the city of Memphis; to the Committee on Banking and Currency.

By Mr. BYRD of West Virginia (for Mr. MORSE):

S. 3532. A bill to incorporate the American Ex-Prisoners of War; to the Committee on the Judiciary.

By Mr. McCLELLAN:

S.J. Res. 172. Joint resolution extending the duration of copyright protection in certain cases; to the Committee on the Judiciary.

(See the remarks of Mr. McCLELLAN when he introduced the above joint resolution, which appear under a separate heading.)

By Mr. FULBRIGHT:

S.J. Res. 173. Joint resolution to establish a Commission on Organizational Reforms in the Department of State, the Agency for International Development, and the U.S. Information Agency; to the Committee on Foreign Relations.

(See the remarks of Mr. FULBRIGHT when he introduced the above joint resolution, which appear under a separate heading.)

S. 3527—INTRODUCTION OF BILL RELATING TO PROHIBITION OF THREATS IN THE DISTRICT OF COLUMBIA

Mr. BIBLE. Mr. President, I introduce, for appropriate reference, a bill to prohibit extortion by means of telephone, telegraph, radio, or written message, or otherwise in the District of Columbia.

The bill in effect provides that it shall be a felony to transmit in the District of Columbia a communication intended to intimidate any person into giving up anything of value. The Chief of Police reports that during the past year there have been several attempts to intimidate owners of business establishments into leaving money at specified locations, to be picked up by the intimidator. In these cases, the owners were told that unless they followed instructions, their families, supposedly being held as hostages, would be injured.

The bill also deals with the problem of the transmission of threats by means of various communications media. It has come to my attention that a considerable number of persons whose business properties were damaged or destroyed in the course of the recent civil disorders here in the District have received threats to the effect that if they should replace or repair their properties and continue their businesses, the properties will again be damaged or destroyed.

A review of existing law in the District of Columbia indicates that in this type of offense, if the money is actually obtained by the person who made the threat, prosecution may be had for the offense of grand larceny. However, if no money is actually obtained, the offense would be that of threats to do bodily harm, or attempted larceny in violation of the District of Columbia Code, both of which are misdemeanors.

Recent weeks have, I understand, been marked by more and more outrageous attempts by the hoodlum element to intimidate businessmen and others.

I am told the problem of threats against business properties here in Washington is assuming serious proportions.

This bill will provide the authorities an effective weapon for dealing with this deplorable situation.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3527) to prohibit extortion, or the transmission of threats to persons or property, by means of telephone, telegraph, radio, oral, or written communications, or otherwise, in the District of Columbia, introduced by Mr. BIBLE, by request, was received, read twice by its title, and referred to the Committee on the District of Columbia.

S. 3529—INTRODUCTION OF BILL TO AMEND THE FOREIGN SERVICE ACT OF 1946

Mr. FULBRIGHT. Mr. President, by request, I introduce, for appropriate reference, a bill to amend the Foreign Service Act of 1946, as amended, and for other purposes.

The proposed bill has been requested by the Assistant Secretary of State for Congressional Relations and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill may be printed in the RECORD at this point, together with the letter from the Assistant Secretary of State to the Vice President dated May 14, 1968, and the explanation of the bill itself and the costs and savings estimate table.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill, letter, explanation, and costs and savings estimate table will be printed in the RECORD.

The bill (S. 3529) to amend the Foreign Service Act of 1946, as amended, and for other purposes, introduced by Mr. FULBRIGHT, by request, was received, read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

S. 3529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following new heading and section be added immediately following section 1112 of title XI of the Foreign Service Act of 1946, as amended:

"RETIREMENT INCENTIVE

"SEC. 1113. Any participant who is retired under section 636 after enactment of this section and prior to April 1, 1969, who is not subject to mandatory separation under the provisions of section 631, 632, or 633 by such date, shall receive a special incentive payment equivalent to one week's salary at his then current salary rate for each year of creditable service and proportionately for a fraction of a year payable from the appropriation from which his salary is paid in such manner as the Secretary may by regulation prescribe: *Provided,* That such participant who is reemployed in a position under the United States or the District of Columbia Government shall not, thereafter, be entitled to further payments under this section."

The letter, explanation, and costs and savings estimate table, presented by Mr. FULBRIGHT, are as follows:

MAY 14, 1968.

Hon. HUBERT H. HUMPHREY,
U. S. Senate.

DEAR MR. VICE PRESIDENT: I am pleased to send you herewith a draft bill which would temporarily provide senior Foreign Service personnel with an added incentive for retirement.

The Department of State finds it advisable to encourage the retirement of between 250 and 300 of its Foreign Service personnel by approximately April 1, 1969. The reduction of United States overseas personnel, made necessary by the balance of payments situation, has given the problem a degree of urgency which warrants one-time consideration by the Congress. While our existing selection-out authority provides an effective tool for controlling the size of the Service under normal conditions, it does not, standing alone, lend itself to reduction-in-force procedures on a crash basis. However, given the additional inducement contemplated by the draft legislation submitted herewith we are confident that the desired level of senior officer attrition can be achieved on a timely basis and without undue disruption of essential functions. We are equally confident that we can properly regulate the size of the Service at all levels thereafter without further assistance.

The Department now has at its disposal the management tools necessary to ensure that the senior ranks of the Service will not again become blocked by an excess of senior officers and that the on-board personnel strength at all levels will at all times bear a direct relationship to the then-current operational requirements. We refer, in particular, to a recently installed position control program, which promises to provide us with a currently up-dated service-wide inventory of positions by both class level and required functional specialization of occupant and to a revised personnel policy which is designed to force a direct correlation between position by class level and functional requirement of occupant and the on-board personnel strength by class level and area of primary functional specialization. Comparisons on this basis between positions and on-board personnel strength will provide the essential data necessary on which to base management decisions concerning levels of recruitment, need for lateral entry, if any, promotion rates within class and within areas of functional specialization and programed attrition. The Department has already moved to reduce junior officer recruitment to not more than 30 new officers during the coming fiscal year, to restrict promotion rates and to accelerate selection out.

If this legislation is to have a maximum impact, it should be in force between July 1, 1968 and April 1, 1969. For this reason the Department respectfully requests that it be given early consideration by the Senate.

The Bureau of the Budget informs us that it has no objection to the presentation of this legislation to the Congress for its consideration.

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary for Congressional Relations.

Enclosures: Tab A, draft bill; Tab B, explanation; Tab C, cost and savings estimate.

EXPLANATION OF A TEMPORARY RETIREMENT INCENTIVE BILL

This bill is intended as a one-time emergency measure to induce between 250 and 300 voluntary retirements from the Foreign Service by approximately April 1, 1969.

If enacted the measure would entitle an officer or employee of the Service who is a participant in the Foreign Service Retirement and Disability System to a special incentive payment if he retires voluntarily any time after enactment and before April 1, 1969 provided he is not subject to mandatory retirement for age or to selection out by such date. The incentive payment would be equivalent to the participant's final weekly salary rate multiplied by his years of Federal service. The payment would be made from the appropriation from which his salary was paid.

The legislation would authorize the Secretary to prescribe by regulation the method of payment. It is contemplated that the Secretary would authorize payments to be made in three annual installments in order to reduce income tax liability. The Secretary could retain the right to make payment in one lump sum in special circumstances. Any participant who received payment in one lump sum who was reemployed within two years by the Federal or District of Columbia Government would be required to refund a proportionate share of the incentive payment. Any participant who received his incentive payment under the installment method would lose any entitlement to further payments at such time as he was reemployed by the Federal or District of Columbia Government.

The measure is designed so that no benefit will accrue to any officer or employee who dies in Service or who is retired because of disability, for age or because of selection out. The measure will benefit only those who could remain in Service but who choose to retire voluntarily before April 1, 1969.

It is estimated that the typical participant electing to retire under this proposal will have a final annual salary rate of $21,500. If he elected to retire on December 31, 1968, he would be entitled to a $10,750 incentive payment under this proposal. His annual retirement annuity would be $9,150. By remaining in Service until June 30, 1970 such a participant could increase his annuity to $11,000 annually purely on the basis of projected salary increases already enacted. In that event, of course, he would not be entitled to any benefit under this bill.

COST AND SAVINGS ESTIMATE—SALARY

Number retiring under incentive plan between July 1, 1968, and Apr. 1, 1969, and estimated year this group would retire without incentive		Estimated salary savings resulting from early retirement
Fiscal year	Number	
1969	50	0
1970	100	$2,100,000
1971	75	3,500,000
1972	50	3,500,000
1973	25	2,300,000
Total	300	11,400,000
Retirement fund savings: Savings to the Foreign Service retirement and disability fund because of early retirement of 250 participants at lower annuities than they otherwise would earn (50 that would retire anyway during fiscal year 1969 not counted)		2,500,000
Terminal leave cost: Additional terminal leave payments accruing during fiscal year 1969 for 250 retirees (50 retiring anyway in fiscal year 1969 not included)		2,250,000
Incentive payment cost: Cost of special retirement incentive payment to 300 retirees		3,200,000

SENATE JOINT RESOLUTION 172—INTRODUCTION OF JOINT RESOLUTION RELATING TO COPYRIGHT EXTENSION

Mr. McCLELLAN. Mr. President, as chairman of the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, I introduce, for appropriate reference, a joint resolution extending the duration of copyright protection in certain cases.

The purpose of this legislation is to continue until December 31, 1969, the renewal term of any copyright subsisting on the date of approval of this resolution, or the term as previously extended by Public Law 87–668, Public Law 89–442, or Public Law 90–141. The objective of this resolution, as well as the preceding interim extensions, is to temporarily continue the renewal term of copyright pending the enactment by the Congress of a general revision of the copyright law, including a proposed increase in the length of the copyright term.

The subcommittee has conducted 17 days of hearings on copyright revision legislation. Although these hearings have

been concluded, it is now apparent that final action cannot be taken on this legislation during the current Congress.

I believe that considerable progress has been made in resolving certain issues, most notably the copyright implications of information storage and retrieval systems. However, new issues have also arisen. Earlier this year the American Library Association suggested certain important and highly controversial amendments relating to the photocopying of copyrighted works. The National Music Publishers Association and the American Guild of Authors and Composers have proposed a new formula for the determination of the mechanical royalty rate. In recent weeks members of the subcommittee and other Senators have received hundreds of letters expressing opposition to the pending legislation on the grounds that it would allegedly interfere with the use of copyrighted materials by our blind citizens and would subject individuals to lawsuits for copyright infringement because of the personal use of tape recorders. Several Senators have requested that the subcommittee should explore these objections before reporting a bill. I have recently been assured by the Copyright Office, which drafted the pending bill, that these fears are unwarranted, and that the passage of the bill would not be harmful either to the blind or those who use tape recorders for their personal enjoyment.

One of the most difficult questions remaining to be resolved is the copyright liability of cable television systems. In an effort to do everything possible to permit action on the copyright revision bill during this session of Congress, the subcommittee, on January 25, requested all interested parties to submit, not later than March 15, a current statement of their position and recommended statutory language. In view of the litigation pending before the Supreme Court and the private discussions between the parties which are currently in progress, there was an understandable reluctance to comply with the subcommittee request.

In the months ahead, as efforts to achieve a satisfactory resolution of the CATV issue continue, I trust that all parties will refrain from any action that would disrupt the current situation or interfere with the public's reception of television programs. I received on May 15 a letter from Mr. Louis Nizer on behalf of the owners of most of the copyrighted television film programs. Mr. Nizer informed the subcommittee that his clients are agreeable to the continuation under certain circumstances of their voluntary agreement to refrain from the institution of legal action against CATV systems. I understand that the music performing societies have made similar statements. I hope that the broadcasting networks will also signify their intent to cooperate with Congress by refraining from the institution of lawsuits. Meanwhile, the subcommittee expects the National Cable Television Association to observe its commitment to make every effort to achieve a reasonable solution to this complex issue.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 172) extending the duration of copyright protection in certain cases, introduced by Mr. McCLELLAN, was received, read twice by its title, and referred to the Committee on the Judiciary.

SENATE JOINT RESOLUTION 173—INTRODUCTION OF JOINT RESOLUTION RELATING TO CONDUCTING FOREIGN RELATIONS IN THE 1970'S

Mr. FULBRIGHT. Mr. President——

> Foreign policy will be dynamic or inert, steadfast or aimless, in proportion to the character and unity of those who serve it.

So began the report of the Secretary of State's Public Committee on Personnel published in June 1954. The report, entitled "Toward a Stronger Foreign Service" [1] but known popularly as the Wriston report, after the name of the chairman of the committee, continued by saying several paragraphs later:

> The internal morale of a Government institution and public confidence in that institution are inseparable parts of an organic process. The one replenishes or depletes the other.

How is the internal morale and unity of those who serve our foreign policy today—14 years after the Wriston report, 22 years after the Foreign Service Act of 1946, which revised and modernized the Foreign Service, and 44 years after the Rogers Act of 1924, which first established a permanent career Foreign Service? Is the Foreign Service vigorous, inventive, and unified, willing and able to produce a dynamic and steadfast foreign policy? Do the men and women in the Department of State meet the formula of Lord Strang, former Permanent Under Secretary of State in the British Foreign Office, for Foreign Office effectiveness which is to be "on their toes and happy to be on their toes"? [2] And what of those in the other Government agencies who also serve our foreign policy?

From everything I have heard and read and seen, I have regretfully concluded that the internal morale in the Foreign Service and the Department of State, as well as in the Agency for International Development and in the U.S. Information Agency, is poor. As the Wriston report has pointed out, it follows that there is, or will soon be, less public confidence in these institutions. For a country as rich in human resources as the United States, facing the enormous problems in the field of foreign relations that this country faces, I suggest that this is not only an undesirable but an intolerable state of affairs.

On what do I base my contention that morale is low and that the effectiveness of the institutions involved is therefore impaired? Proof is readily available not only in what the members of the institutions themselves say privately but also in what they say publicly. For example, the February issue of the Foreign Service Journal contained an article entitled "Is the Foreign Service Losing Its Best Young Officers?" Summarizing the results of a survey of recently resigned junior officers, the article observed that the typical resignee:

> . . . leaves the service primarily because he feels that his work has not been sufficiently challenging and he has seen little to reassure him regarding his future prospects . . he feels that his present job provides him with greater challenge than he would have had had he remained in the Foreign Service.

A tabulation in the article, showing the reasons these officers left the Foreign Service, indicates that the principal factors were dissatisfaction with the personnel system, a lack of anticipated challenge, dim prospects for responsibility and general frustration with the bureaucracy. The least important reasons, mentioned in only a few cases and never as a primary reason, were low pay, dissatisfaction with supervisors and a slow rate of promotion.

Undoubtedly this is the sort of feeling that led a Foreign Service association "spokesman" to tell a New York Times reporter last September that the election of a write-in ticket to control of the association "reflected a general mood of grievance and concern, a sense of frustration and malaise about the state of morale at the State Department and among career officers at the Agency for International Development and the U.S. Information Agency." [3] Even Under Secretary of State Katzenbach, whose interest in the problems of the Foreign Service has been commendable and whose influence has been salutary, has referred, in a public speech, to some of the concern and frustration in the Foreign Service, the kind of acknowledgment of personnel problems that rarely comes from the higher reaches of any Government department. In addressing the Foreign Service Day Conference at the Department of State on November 2, 1967, Mr. Katzenbach said that able younger men in the Foreign Service "complain that their talents are underutilized," and the Under Secretary went on to admit that, while such complaints might be exaggerated "the underutilization of a talented body of men is paradoxical, harmful, and even tragic."

One of the most distinguished alumni of the Foreign Service, when asked recently on a national television program whether he would advise a young man to go into the Foreign Service today, replied:

> If he was ambitious, if he wanted to get ahead and if it was going to cause him pain if anyone got promoted ahead of him, I would tell him not to go into it. If he wants to live abroad, keep his eyes open and broaden his horizons intellectually then I would say go right ahead.

That distinguished alumnus was Ambassador George F. Kennan who was saying,[4] it seemed to me, that a young man might serve his own limited short-

[1] "Toward a Stronger Foreign Service," Department of State Publication 5458, released June, 1954.

[2] Lord Strang, *The Diplomatic Career* (London, Andre Deutsch, 1962).

[3] "Diplomats' Group Elects Activists," *New York Times*, September 29, 1967.

[4] On "Meet the Press," November 5, 1967.

range interests in the Foreign Service but that his prospects for making a useful contribution, as the institution is now organized, were dim.

Ambassador Kennan is not alone in his views. In a recent letter to the editor of the Foreign Service Journal, another distinguished Foreign Service alumnus, Ambassador Charles W. Yost, wrote that his own experience with many promising young officers who had either resigned or "dispiritedly accommodated themselves" confirmed that these young officers in the Foreign Service often felt that they faced a lack of challenge and an unsatisfactory personnel system.[5] Ambassador Yost added that there was no reason why a personnel system "should be, or should seem, bureaucratic, unresponsive, and unimaginative." Ambassador Yost concluded his letter by saying:

> It would be a very great tragedy if the Foreign Service, just when the country needs it most and when it offers in fact the most brilliant opportunities, should be eroded at the base through failure to take advantage of the zeal, ambition and expectations of its best qualified and best trained young officers.

I am reasonably confident that these comments could be made just as aptly for young officers in the Agency for International Development and the U.S. Information Agency.

Bureaucracies have a tendency to grow, as we all know. In fact, a recent program in the Foreign Service to reduce the size of embassies that had grown unreasonably large was nicknamed "Operation Topsy," a name that strikes me as whimsically accurate. Someone brought to my attention a recent article in the London Daily Telegraph magazine by the renowned C. Northcote Parkinson pointing out that in the period from 1914 to 1967, while the total number of vessels in commission in the British navy fell from 542 to 114, and the number of officers and men in the Royal Navy from 125,000 to 84,000, the number of Admiralty officials and clerical staff rose from 4,366 to 33,574.[6] And while Britain's colonies almost disappeared between 1935 and 1954, in that period the Colonial Office grew from 372 to 1,661 employees.

I suspect, again on the basis of what I have heard from those in the Department of State as well as what I have read, that administrative proliferation has also reached a rather acute stage in our foreign affairs agencies and that too many people are kept busy reading unnecessary reports written by too many other people who have nothing else to do. If this were not so, the recent decision to reduce the size of all embassies overseas in order to reduce our balance-of-payments deficits would not have been made. Surely, we could not afford to cut any essential activities abroad any more than we could not afford not to cut unessential activities.

In "Farewell to Foggy Bottom," Ambassador Ellis Briggs wrote in 1964:

> Foreign Affairs would prosper if the 1960s could become known as the decade in which the American Foreign Service was not reorganized.[7]

Ambassador Briggs has had his wish in some ways and has not had it in others because the Foreign Service has been reorganized—not on a grand scale but piecemeal—with the results that those observers and participants I have quoted have described. And these piecemeal reorganizations have also taken place in the Agency for International Development and in the U.S. Information Agency. But the 1960's are almost over. The question now is what should the Foreign Service, and the other foreign affairs agencies, be like in the 1970's?

I believe that the time has come for a thorough, realistic, and objective examination of the operation in the United States and abroad of the Foreign Service, the Department of State, the Agency for International Development and the U.S. Information Agency—the principal agencies which conduct this Nation's foreign relations at home and abroad. In October 1966 I wrote the President and suggested the appointment of a blue-ribbon Presidential Commission to perform this function and to suggest reforms that should be made, a commission to be composed of people who have had broad, relevant experience and whose only interest would be in seeing that the United States has the best possible organization to conduct its foreign relations. The executive branch, while not denying my assertions that fundamental and far-reaching changes were needed in the Department of State and other agencies with important responsibilities in the field of foreign affairs, indicated a belief that the needed reforms could be instituted more effectively without outside assistance by the top noncareer level of the Department of State. Two years have now passed and, despite the best efforts of the top noncareer level of the State Department, I do not think that the situation has improved.

It has been argued that such commissions as the one I proposed have been appointed several times in the past and that there is thus no need to repeat the experience. I would disagree. The Hoover Commission examined the entire organization of the Government, including the Department of State, but this examination was conducted over 20 years ago and is now out of date. The so-called Wriston Committee, chaired by President Wriston of Brown University, was appointed by the Secretary of State in 1954. Its deliberations took only 2 months, and its members did not inspect operations in the field. It issued a relatively brief report whose principal recommendation was to consolidate the Department of State and Foreign Service personnel systems—a consolidation which has been gradually unraveling ever since.

The most recent attempt in this field was by a Committee on Foreign Affairs Personnel established late in 1961 under the auspices of the Carnegie Endowment for International Peace and headed by former Secretary of State Christian Herter. Its deliberations appeared to be thorough. It devoted a year to its task, its members visited 32 posts abroad, and it took formal evidence from 18 witnesses. It issued a report with 43 recommendations.[8]

Many of the Herter Committee's recommendations were, however, so general that they were almost truisms. For example, one recommendation was that the Department's leadership capabilities should be strengthened, which is certainly a more desirable goal than weakened leadership. Another was that the State Department, USIA, and AID should "tap more systematically the most promising sources of highly qualified candidates," which, again, is certainly preferable to the unsystematic recruitment of less well qualified candidates. Other recommendations of the Herter Committee were ignored. The committee's second recommendation, for example, was that a position of Executive Under Secretary of State be established. Still other recommendations were contradicted subsequently by Departmental decisions—the fate, for example, of the committee's recommendation 27 that "selection out for time in class should be eliminated"—or have had to be abandoned because the Congress, for one reason or another, has not been willing to pass the necessary legislation.

The United States is, of course, not alone in facing the problem of how best to organize the conduct of foreign relations. Six years ago, the British Government decided to conduct a thorough review of the purpose, structure, and operation of its foreign affairs establishment.

I am impressed by the British Government's approach in this case. The Prime Minister appointed a distinguished "Committee on Representational Services Overseas" headed by Lord Plowden. I should emphasize that the committee was appointed by the Prime Minister, not by the Secretary of State, as was the Wriston Committee, or under the auspices of a private foundation, as was the Herter Committee. The members of the committee included two members of the House of Commons, one Labour Party member and one Conservative, in contrast to the Wriston Committee and the Herter Committee, neither of which included members of the Congress. The Plowden Committee spent a year and a half in its task, visited 42 posts abroad, took formal evidence from 75 witnesses and issued a 176-page report with 52 recommendations.[9]

How has the Plowden Committee report of 1964 fared compared to the Herter Committee of 1962? According to John E. Harr, a Department of State official who, incidentally, had served on the staff of the Herter Committee, while there has been "very slow progress" in implementing the Herter report, the

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[5] *Foreign Service Journal*, April, 1968.

[6] "Is the Civil Service Swallowing Britain?", *The Daily Telegraph Magazine*, December 8, 1967.

[7] Ellis Briggs, *Farewell to Foggy Bottom*, (New York: David McKay Company, Inc., 1964).

[8] "Personnel for the New Diplomacy," *Report of the Committee on Foreign Affairs Personnel*, Carnegie Endowment for International Peace, December, 1962.

[9] "Report of the Committee on Representational Services Over-Seas Appointed by the Prime Minister Under the Chairmanship of Lord Plowden 1962–63," published by Her Majesty's Stationery Office, London, 1964.

Plowden report was "implemented almost in its entirety, and needed action was taken swiftly and decisively." [10] Mr. Harr termed the report an "overall success" and said that, in the opinion of those in the Foreign Office whom he had interviewed, the amalgamation of the Foreign Service, Commonwealth Relations Service and Trade Commission Service into one diplomatic service, as recommended in the Plowden report, "has indeed given British overseas representation a much needed shot in the arm." He concluded that the British appear to be "moving ahead very progressively" with their Diplomatic Service's administrative problems.

I have felt for several years that while the British do not have the answer to every problem, they may well have the answer to the one I am discussing today. I am convinced that the executive branch departments and agencies concerned—either the top noncareer level of these departments and agencies or the administrative specialists with vested interests in the results to whom such a task ends up being delegated—cannot alone institute the needed reforms. A view from the outside is also needed—a broad and objective view, unencumbered by political considerations or by the obligations that executive branch officers have toward the interests of the particular department or agency in which they serve.

The United States has many distinguished citizens who have served in high positions in the Government, here and abroad, and in the private sector as well. We should put the best available minds among them to work on this problem. To suggest just one example of such a man, I would point to the distinguished career of Douglas Dillon who has served in both Republican and Democratic administrations, in the State Department and in an embassy abroad, in the Treasury Department and in the private sector as well. There are many other men whose experience, while perhaps not as broad, would enable them to bring knowledge and perspective to the work of such a commission which could draw its staff not only from various Government departments and agencies but from foundations and universities, and also from corporations, banks and management consulting firms with large foreign operations of their own.

I am therefore submitting today a joint congressional resolution providing for the establishment of such commission to be composed of 12 members—two from the Senate, two from the House of Representatives and eight to be appointed by the President. The joint resolution stipulates that the members appointed by the President should not, at the time of their appointment, be serving in any governmental position other than in an advisory capacity.

I do not intend to press this joint resolution to a vote at this time because I do not believe that the appointment of such a commission should be one of the last acts of a retiring administration. But I do believe that the appointment of such a commission should be one of the first acts of a new administration. I am introducing the joint resolution today so that the candidates for the office of the Presidency, and Members of the House and the Senate, will have time to think about it. I will introduce the joint resolution again at the beginning of the next Congress and I will then do my utmost to achieve its adoption.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 173) to establish a Commission on Organizational Reforms in the Department of State, the Agency for International Development and the U.S. Information Agency, introduced by Mr. FULBRIGHT, was received, read twice by its title, and referred to the Committee on Foreign Relations.

[10] "Some Observations on H. M. Diplomatic Service," John E. Harr, Foreign Service Journal, August, 1967.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967—AMENDMENTS

AMENDMENTS NOS. 816 AND 817

Mr. TYDINGS submitted two amendments, intended to be proposed by him, to the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes, which were ordered to lie on the table and to be printed.

AMENDMENTS NOS. 818 AND 819

Mr. HRUSKA (for himself and Mr. THURMOND) submitted two amendments, intended to be proposed by them, jointly, to Senate bill 917, supra, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 820

Mr. LONG of Louisiana submitted amendments, intended to be proposed by him, to Senate bill 917, supra, which were ordered to lie on the table and to be printed.

RIOTS AND THE MARCH ON WASHINGTON

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD the following news items:

An article entitled "Mass Rally Is Delayed Until June 19," written by Bernadette Carey, and published in today's Washington Post.

An article entitled "Night Bus Runs Cut Sharply—Full Halt Possibly Thursday," written by Martin Weil and Robert F. Levey, and published in today's Washington Post.

An article entitled "Any Scraps Not Enough, Hill Unit Told," written by Richard L. Lyons and published in today's Washington Post.

An article entitled "Reporter Roughed Up in Resurrection City," written by John Russell, and published in today's Washington Daily News.

An article entitled "Schools Mull Handling of 'Resurrection' Visits," written by Pamela Howard, and published in today's Washington Daily News.

An open letter to the President of the United States, Congress, and the Mayor and officials of the District of Columbia, apparently a paid advertisement by Park & Shop, Inc., published in today's Washington Daily News.

An article entitled "Southern Unit Marches into District Today," published in today's Washington Evening Star.

An article entitled "Tent City Losing 500—Many for Unruliness," published in today's Washington Evening Star.

An article entitled "Sweet Willy's Group Invades Ballou High," published in today's Washington Evening Star.

An article entitled "Principal Rebuffs Marchers," written by Willard Clopton, Jr., and published in today's Washington Post.

An article entitled "Colleges Deny Facilities to Poor March Classes," published in today's Washington Evening Star.

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

[From the Washington (D.C.) Post, May 22, 1968]

MASS RALLY IS DELAYED UNTIL JUNE 19

(By Bernadette Carey)

The Rev. Ralph David Abernathy, leader of the Poor People's Campaign, announced yesterday that the Campaign's National Day of Support had been rescheduled for June 19.

Abernathy said that the planned massive demonstration would bring thousands of participants to Washington and would be coordinated by Bayard Rustin, director of the A. Philip Randolph Institute in New York and architect of the 1963 March on Washington.

In Washington yesterday, some participants in the campaign, made two trips to Capitol Hill to press their demands on the Congress, but a planned march to the Kennedy grave was abandoned when the organizers ran into "discipline" problems.

The Rev. Andrew Young, executive vice president of the Southern Christian Leadership Conference, revealed yesterday that last week he had sent home 39 members of a Chicago gang called the "Blackstone Rangers." He said they had violated regulations of the camp on the Mall.

Mr. Young said 17 youths from Cincinnati who had "made some trouble" Monday night were sent home yesterday morning.

Through most of the day yesterday, the mood of Resurrection City was one of muffled anger, with surly young participants in the Campaign snapping at each other and at Campaign officials and at reporters.

About 200 of the demonstrators, upset by the actions of some of the younger, more revolutionary participants, demanded that the Campaign leaders send them home.

By 2:30 p.m. chartered buses started arriving at the camp to take the 200 back to cities in the Midwest.

Mr. Young told a reporter that there had not been adequate screening of all participants in some communities across the country, and that by Friday, about 500 of the demonstrators would be screened out here and sent home.

He said that some of the recruiters were more interested in numbers than in getting the kind of dedicated nonviolent advocates that SCLC had wanted to bring to the Capital.

TWENTY-SIX HUNDRED AT CITY

About 2,600 participants now are housed at Resurrection City, with about 400 more from the Southern caravan still being housed in churches in Fairfax County. Campaign leaders earlier had hoped to have them move into the plywood and plastic shanty town yesterday.

The first visit to Capitol Hill yesterday was led by the Rev. Walter E. Fauntroy, vice chairman of Washington's City Council and the SCLC's Washington representative, and Marian Wright, a civil rights lawyer.

About three groups of 65 persons each were allowed to go onto the Capitol grounds. Some listened to hearings at the Capitol and eight testified at one.

The second trip was led by the shanty town's elected "city manager," the Rev. Jesse Jackson, from Chicago.

MARCH TO CAPITOL

About 350 poor people followed Mr. Jackson to the foot of Capitol Hill from the encampment near the Lincoln Memorial. As the group crossed streets, police halted traffic to let them pass, holding up commuter traffic headed to Virginia suburbs.

At the foot of Capitol Hill, Capitol Police Chief James M. Powell met the demonstrators and, after a 15-minute discussion, allowed them to go up to the Capitol in small groups of about 20 each. Mass demonstrations on the Capitol grounds are against the law. Chief Powell told them they could not enter the House or Senate galleries without passes.

As the group walked silently onto the grounds, aides from the offices of Reps. Benjamin S. Rosenthal (D-N.Y.) and Philip Burton (D-Calif.) met them and distributed 30 or 40 House gallery passes. They said the Justice Department had asked them to supply the passes.

Rep. John Conyers (D-Mich.) also met the groups and presented Mr. Jackson a letter welcoming the group as his into the building.

The groups filed quietly into the Capitol through the east entrance, and those holding passes were admitted to the gallery at 5:37 p.m. Officials said the Conyers letter could not authorize entrance for the entire crowd, and those without passes waited in a corridor until Congress adjourned at 5:43 p.m.

As Mr. Jackson emerged from the gallery, the group chanted "Soul Power, Soul Power."

Mr. Jackson said the Conyers letter had "not been respected." The crowd left the building and waited outside while Mr. Jackson met with Conyers and House Speaker John W. McCormack (D-Mass.)

Afterward, McCormack would say only that "it was just a social visit."

Just as a motion was made to adjourn the House session, a man in the rear of the Poor People's delegation in the gallery shouted there would be no adjournment "until June 27."

Guards quickly quieted the man, who Campaign officials said was not a member of their group, and took him away.

Police charged Peter J. Calino, 25, of Valhalla, N.Y., with being disorderly after the incident. He was being held last night in lieu of $300 bond.

About 150 men from the Capitol Police force's day shift were held over when their tour of duty was up at 4 p.m. The 4-to-midnight shift, about 90 men, was also on hand.

Policemen put wooden barricades across steps leading from the second to the third floors on the House side of the Capitol, and there were extra policemen guarding all entrances. The Metropolitan Police Department had 40 men standing by in the Rayburn House Office Building, and Assistant Chief Jerry V. Wilson was on the scene.

Mr. Jackson and his followers got into the gallery just after Rep. Albert W. Watson (R-S.C.) finished a speech on the almost-empty floor, charging that the Poor People's Campaign was Communist-influenced.

Mr. Jackson said later, "The fact is this Campaign is not Communist-inspired. It is hunger-inspired." He then led the group back to the camp.

One arrest was made at the camp yesterday. Arthur L. Copeland, 18, a refuse worker from Atlanta, was arrested by Park Police and FBI agents at 6:40 p.m. and charged with carrying a deadly weapon.

Police said Copeland was standing alone on the Mall at 12th Street, repeatedly drawing and holstering a loaded .32-caliber pistol.

Mr. Abernathy held a press conference at the camp late in the afternoon and announced the postponement of the large demonstration from Memorial Day to June 19.

He did not specify exactly what the demonstration would entail.

Rustin, reached by telephone in New York, said the demonstration had been postponed to allow him more time to organize it correctly, and because it was impossible to get chartered transportation for Memorial Day when so much of the Nation's transportation facilities would be tied up with normal holiday traffic.

Rustin said an organization called Mobilization in Support of the Poor People's Campaign had set up headquarters at 217 W. 125th st., in New York, for the June 19 demonstration.

He said June 19 had been chosen "because that was the date on which the Texas slaves were freed."

"The date is very important to Southern Negroes who celebrate June 'Teenth' Day as though it were the Fourth of July," he said.

Rustin said that about $100,000 would be needed to finance the June 19 demonstration.

Mr. Abernathy did not comment on the trouble within the encampment. He said that "one way or another," he'd move into Resurrection City "before the day is out."

Some of the poor people at the camp had chided him and other SCLC leaders for living comparatively luxuriously at a motel, and said they should have been at the camp with their followers.

One fear of the campaign organizers is that people at the camp might become bored, and thus restless.

This, they feel, may have touched off some incidents yesterday.

In one, Chicago youths, identifying themselves as "friends of the Blackstone Rangers," pushed, shoved and struck several reporters and cameramen who were covering the scene.

One white youth—who later refused to give his name to a reporter—was hit over the head with a club, but suffered only scalp lacerations and bruises.

One group of young men left the camp and went to several city schools.

The California and Texas contingents of the Western caravan heading toward Washington is expected to join up in St. Louis on Monday.

A group of 800 Negroes, Mexican-Americans and Indians, also in the Western caravan, moved into Louisville yesterday and are expected to arrive here Thursday.

MULE TRAIN DELAYED

The Southern mule train, with about 95 campaigners, was scheduled to leave Grenada, Miss., yesterday, but the town's police commissioners expressed doubt that the group, now only 60 miles from its starting point and more than a week behind schedule, would leave as planned.

An American Indian delegation, however, is faring better on its trek, and had left Minneapolis for Madison, Wis., yesterday.

The fruits of Mr. Abernathy's visit to California last week began to pay off yesterday in pledges of financial support to the campaign from celebrities.

Actor Jack Lemmon announced yesterday in California that he had pledged 50 per cent of his salary from his next movie to the Campaign through the Southern Christian Leadership Conference.

Lemmon had attended last week's SCLC gathering at the home of producer Edward Lewis in Bel Air, Calif. Also present were Mrs. Martin Luther King, Mr. Abernathy and Mr. Young, and such stars as Marlon Brando, Carl Reiner, James Garner, Shelley Berman, Barbara Streisand, Eartha Kitt and many others.

Funds were raised there to send three busloads of poor people to Resurrection City.

One visitor at the West Potomac Park campsite yesterday was entertainer Sammy Davis Jr. He arrived in a chauffeur-driven limousine and got out and walked into Resurrection City, where he was engulfed by people.

When Mr. Abernathy arrived there, he and Davis embraced. Davis gave SCLC a check for $17,800, the proceeds of a benefit performance given in Chicago last night of the musical "Golden Boy" in which Davis stars.

Mr. Abernathy, who also was chauffeur-driven, had with him several labor leaders and actors Sidney Poitier and Robert Culp.

One SCLC worker said that celebrities have been volunteering to come here to entertain the participants and raise funds to pay for the Campaign. A schedule is being arranged to have four or five entertainers come here each week, starting immediately.

[From the Washington (D.C.) Post, May 22, 1968]

NIGHT BUS RUNS CUT SHARPLY—FULL HALT POSSIBLE THURSDAY

(By Martin Weil and Robert F. Levey)

Washington bus drivers voted at a union meeting last night to refuse to accept company money on both the day and night shifts starting Thursday night if the current dispute over driver protection is not settled to their satisfaction by then.

The move by Local 689 of the Amalgamated Transit Union would, in effect, amount to a strike under the current D.C. Transit policy that prohibits drivers from working if they do not carry money for selling tokens and making change.

At midnight last night, with the union ordering its men not to accept money and the company refusing to let them drive without it, only 20 of a scheduled 196 buses were operating in the District. None of the Washington, Virginia & Maryland Coach Company's fleet, linking Washington to Northern Virginia, was on the streets.

But company and Union officials said early today that all rush-hour service and regular daytime service is expected to be normal or near-normal through Thursday.

With a Thursday deadline facing them, union and company officials went into conference at 9 p.m. yesterday. Washington Metropolitan Area Transit Commission Chairman George A. Avery was the mediator. The marathon meeting broke up without a settlement at 1:15 a.m. today, but officials on all sides agreed to resume talks this afternoon.

Before the Union met to set the Thursday deadline, Avery had offered a compromise that called for drivers to carry a "drastically reduced" amount of money and promised hearings on the Union suggestion of plastic shields around drivers.

But John E. Elliott, international president of the Union, called Avery's proposal unacceptable.

A severe curtailment of bus service on the lines of D.C. Transit and its subsidiary, Washington, Virginia & Maryland Coach Co., came late Monday and early Tuesday as drivers began to follow a union order to carry no cash on night runs.

The company refused to permit drivers to operate their buses if they did not carry the cash needed to make change and to sell tokens. As a result, 161 D.C. Transit drivers were not allowed to operate Monday night, the union said.

The union's no-cash orders came in the wake of a rash of bus robberies here, followed by Friday's holdup-slaying of driver John Earl Talley.

Avery met with union and management in a nine-hour negotiating session Monday night and Tuesday morning. In his order yes-

terday he recognized the drivers' concern for their safety, but he said that refusing to carry any cash at all is not reasonable.

Union officials said the proposal for the hearing did not assure that protection would be provided.

The union also objected that the order did not specify the amount of cash to be carried. It said the amount would probably remain too high.

[From the Washington (D.C.) Post, May 22, 1968]

"ANY SCRAPS" NOT ENOUGH, HILL UNIT TOLD

(By Richard L. Lyons)

"We're asking and we're not taking any scraps," said Lela Mae Brooks of Sunflower County, Miss., as the Poor Peoples' Campaign moved onto the Capitol and made their presence felt.

They marched up the Mall twice during the day in groups of more than 100 to testify in the Senate, listen at a House hearing on hunger, call on members and visit the House about three minutes before it adjourned.

Mrs. Brooks was one of half a dozen invited to tell their needs to a Senate Government Operations subcommittee headed by Sen. Edmund S. Muskie (D-Maine) investigating housing problems of people evicted by urban renewal.

"We're tired of waiting for decent homes and jobs," said Mrs. Brooks. "The places maintained by Eastland (Sen. James O. Eastland, D-Miss., who has large farm holdings) are not fit for dogs to live in. The people in Mississippi are not going to wait another 100 years. We're asking and we're not taking scraps."

Barbara Arsenault of Berkely, Mich., a white mother raising five children on welfare, said: "I don't work. I don't intend to work. I have five children to raise. If they are properly raised they will repay the cost." She called life in Resurrection City by the Reflecting Pool "a beautiful experience in brotherhood."

Vincent Negron, a Puerto Rican from the Brownsville area of Brooklyn where he said 85 per cent of the residents are on welfare, complained of relocating urban renewal residents from one slum to another. The housing in Resurrection City is better than anything in Brownsville, he said.

Marian Wright, member of the NAACP's Legal Defense Fund and liaison with Congress for the Poor Peoples' Campaign, told Muskie "the sad fact is that four years after passage of the (1964) Civil Rights Act the Federal Government still is the largest single supporter of segregation in this country" because of lax enforcement of new laws and older programs such as urban renewal which perpetuate segregation.

About 40 marchers attended a House Education and Labor Committee hearing and heard reports that 2 out of 3 of the Nation's poorest children fail to share in the Federal school lunch program. Florence Robin and Jean Fairfax, who made a study for private women's groups, said 4 million children of parents earning less than $2000 a year fail to get free or reduced-price lunches because of lack of coordination in Administration.

The Committee has begun a lengthy investigation of hunger in this country. Congressmen from both parties said programs to feed people should be exempt from spending cuts.

Secretary of Agriculture Orville Freeman told the American Freedom from Hunger Foundation last night that the school lunch program is serving 405 million lunches this year, compared to 286 million four years ago.

The Rev. James Bevel, a leader of the Poor Peoples' Campaign, met with aides to Republican Congressmen yesterday. When asked specifically what the poor wanted, he reportedly replied that it was the poor people's role to "create psychic dynamics so that Congress will act." The burden of what should be done lies with white America, he was said to have told the closed meeting.

Late in the afternoon, a group of the poor marched to the Capitol and arrived in the House gallery just too late to hear Rep. Albert Watson (R-S.C.) make a speech alleging "Communist involvement" in the preparation of the march.

Watson said he did not suggest that the march leaders are Communists or that Communists control the campaign. His speech dealt almost entirely with a meeting of the Southern Conference Education Fund that he said was held in Atlanta last month. He said this meeting, "controlled by hardcore Communists," adopted a resolution supporting the march and purposely omitting the word "nonviolent". He said that resolution "has apparently become the directive for Ralph Abernathy (march leader) and his followers."

Contacted at Louisville, Carl Braden, head of the Fund's board of directors, categorically denied Watson's charges and said, "Everybody knows that Rep. Watson has always been against freedom and equality and justice for the poor people of this country, so his comments are no surprise to us."

[From the Washington (D.C.) Daily News, May 22, 1968]

REPORTER ROUGHED UP AT "RESURRECTION CITY"

(By John Russell)

Resurrection City, which is being financed largely by contributions, today is two bucks richer, thanks to my "donation"—given the hard way.

The "gift" was forked over to a group of stick-carrying teen-agers who thru taunts and jeers made it clear that without a "donation" I would have a difficult time getting out of the sprawling tent city unharmed.

Maurice Johnson, a United Press International photographer and I were on assignment to report on Ohioans living in the Poor People's Campaign encampment along the Reflecting Pool.

We had finished talking to a group of protesters from Cleveland and were walking down the city's main thorofare to photograph the Cincinnati shanty compound.

As we passed a group of Chicago shacks, a group of six to eight teen-agers, wearing no identifying protest group affiliation but carrying four-foot long sticks, began surrounding us, chanting, "We don't want no pictures taken around here."

SHOVING MATCH

The youths started pushing up against Mr. Johnson and I, continuing their rhythmic taunts until someone in the crowd yelled, "They have already taken pictures."

One youth, wearing a black baseball batter's helmet, started grabbing at the three cameras strapped around the photographer's neck, saying. "These are our cameras now."

Another youth grabbed the notebook from my hand and then complained that I had written down the names of some of the protesters.

"We don't want names in the newspapers," he sneered.

I tried to explain that I had been interviewing some of the marchers from Cincinnati, but I could see that any of my answers would be unacceptable.

"I want a cigaret," said one youth grabbing at my shirt pocket.

"We want a donation," another youth yelled.

"Yeah, give us a donation," chimed in another.

I reached in my pocket and pulled out a dollar bill which was snatched out of my hand.

A tall youth wearing a green turtleneck sweater grabbed my arm and started pushing me out of the growing crowd.

"You better get out of here in a hurry . . . there may be some trouble . . . I'll try to help you," he whispered.

EXTRA DOLLAR

I fished out another dollar and handed it to him, asking him if he could help Mr. Johnson who was now desperately trying to hang onto his cameras.

The youth broke back into the crowd and pushed Mr. Johnson out of the melee.

Two other youths then offered to escort us to safety in return "for another donation."

Mr. Johnson said he would give them money when we reached the gate. I only had three bus tokens left in my pocket.

ESCORT BY MARSHAL

On the way to the gate we met one of the Southern Christian Leadership Conference marshal staff, who escorted us thru the camp without trouble.

During the scuffle, Mr. Johnson lost his photo bag containing three camera lenses. The cameras, however, were still intact.

One marshal later explained that a group of the youths, mostly teen-agers from Chicago, were being sent home because they could not adapt to the camp's discipline.

He said many of those being banished from the camp came to Washington directly from Chicago without going thru any disciplinary training and non-violent orientation.

[From the Washington (D.C.) Daily News, May 22, 1968]

BALLOU HIGH DISRUPTED: SCHOOLS MULL HANDLING OF 'RESURRECTION' VISITS

(By Pamela Howard)

Prompted by yesterday's lunchtime disturbance at Ballou High School, District school officials were meeting today to discuss ground rules for handling requests by Resurrection City residents for assemblies to tell students what the Poor People's Campaign is all about.

Participating in the meeting are senior high school principals and George Rhodes, assistant superintendent for secondary schools.

Yesterday, Memphis gang member Lance (Sweet Willie) Watkins and about 10 of his Resurrection City colleagues showed up at Ballou, Eastern and Cardozo High Schools and asked principals to hold assemblies. Tho they were refused at all three schools, only at Ballou was there any trouble.

FIRE ALARM YANKED

There, according to Principal Joseph Carlo, the group was repeatedly asked to leave after their request was denied, but they continued on into the building where somebody set off a fire alarm. A few Ballou students, including Phil Young, a Black Student Union activist, joined the Resurrection City group which started wandering thru the corridors.

Mr. Carlo called the police. When an officer arrived and asked Sweet Willie and his boys to leave, they did and police said on that basis no arrests were made.

"This was definitely an act of violence," said Mr. Carlo. "There was total disruption of the school." He said the group came and left within the lunch hour and only stayed for about 40 minutes.

Mr. Carlo said the group should have gone thru the school administration if they had wanted an assembly.

ON TO EASTERN

After Ballou, the group went on to Eastern where acting principal Shirley O. Brown refused an assembly request, but allowed the residents to enter the cafeteria where they talked to about 70 students for the remainder of the lunch hour. "They stayed for about 10 or 15 minutes and talked about supporting the campaign in a nonviolent way," said Mr. Brown.

The group's final stop was at Cardozo where they were told to come back today, said assistant principal Herman Clifford. The

whole school and most of the administrators were attending a cadet corps drill competion, Mr. Clifford explained.

To date, the School Board has been waiting for the District Corporation Counsel's word on whether the students residing in Resurrection City have to attend District schools. The Board has allowed information about the Campaign to be posted on school blackboards and has officially stated that teachers may house residents.

The City's five universities announced yesterday that they could not space dormitories or classrooms for use by the Poor People's University, a three-week program for college students slated to begin May 29. The program appeared to have been all set to go.

[From the Washington (D.C.) Daily News, May 22, 1968]

AN OPEN LETTER TO: THE PRESIDENT OF THE UNITED STATES; THE CONGRESS OF THE UNITED STATES; THE MAYOR AND OFFICIALS OF THE DISTRICT OF COLUMBIA

NOTE.—This letter is sent at the unanimous request of the Executive Board of Park and Shop, Inc., which represents over 200 member merchants and professional firms and over 95% of all commercial parking facilities in the District of Columbia.

All citizens of the United States have a right to visit their national capital, and this right should be denied to none. All citizens have a concomitant right to do so with reasonable assurance of personal safety. This dream of every American from childhood, this privileged pilgrimage to the shrine of liberty, is now denied to the vast majority of the people by the actions of a few. The majority of the people are afraid to visit Washington, and many of its own citizens are leaving the city. The effect on business, property values, and tax income can not escape even the casual observer, nor can the effect on the support needed by the people's representatives.

The economic advancement, or even survival, of the entire community of Washington depends largely on the existence and growth of commerce within the city. If all commerce ceased, the community would cease. The daily needs of the people, rich and poor alike, for food, clothing, shelter, transportation, services, health, recreation, and many other aspects of life are provided by the business community. In many areas of this metropolis the innocent citizens are now denied convenient access to these requirements because businesses have been destroyed or driven out by arson, looting, and ever increasing harassment, violence, and open crime.

These same businesses provide the opportunity for tens of thousands to support themselves and their families, but many are now denied the means of livelihood by the destruction or dispersal of the businesses for which they had worked. Why do the many innocent have to continue to suffer while the few guilty run rampant through the streets?

The taxes of the business community provide a large part of the support of the social welfare, police, fire and other public functions of this city. Taxes have been increasing, and are expected to increase more, but protection has been decreasing, and if the recent past is any indication, it is expected to decrease more.

As businessmen and as private citizens we want to live within the law, but we want others also to live within the law. We want the protection and justice of the law for all. We want to respect the rights of others, but we want them to respect our rights.

Men have given into the hands of society their own defense and the defense of their families in order to attain order and the general welfare through law. Not fear or intimidation, but love of civilization has been the genesis of the self-control and the reluctance to react with force against force on the part of threatened communities during recent disorders. There may well be a dangerous misunderstanding of this point on the part of a militant few. If people are pressed too far, or if their families, communities, or means of livelihood are threatened beyond endurance or beyond the ability or willingness of society to provide adequate protection they will retake into their own hands their inalienable right to self-defense and survival.

This nation has borne the allegedly spontaneous rape of its cities with restraint and patience beyond ordinary understanding, but the eyes of the whole country are now on Washington, and with a clear understanding that the approaching events will not be spantaneous. An aura of uncertainty and personal insecurity, a growing smog of fear, hangs over this, the national capital. It is not just another city. It belongs to all Americans, and all Americans are watching. Continued order and justice under a common law depends on the outcome. If the Government is incapable of assuring the security of the capital and the personal protection of less than a million citizens, you may fully expect that the lesson will not be lost on two hundred million.

Our national policy has been to assure national security wherever possible through the existence of sufficient force to be an overwhelming deterrent to aggression rather than through the use of that force to punish aggression. Will the Government of the District of Columbia and the nation provide an overwhelming deterrent to violence? Will they provide visible police and troops sufficient to discourage the criminal few from acts which unfortunately and unjustly are often blamed on the innocent majority of one segment of our whole people? Or will they allow an apparent danger to become a real disaster? Will they bear the guilt of driving each State, each city, and even each citizen to provide his own protection? Will their example teach each individual that in order to survive he must meet the threat of force with force, action with reaction, and counter-reaction with escalation until the fabric of our society and our civilization is rent asunder?

We of the business community feel that we have some guilt for not having impressed for greater protection in the past, for having allowed ourselves to be intimidated by the potential and at times real threat inherent in sticking one's neck out.

But it is time to stop worrying about sticking our necks out, about not getting involved. We are involved, and we intend to defend the commercial and economic interests of this city and its people. We ask for the protection to which we have a right, for our lives and property and for the lives and property of the entire community. It will be achieved, but we prefer that it be achieved through the law.

We ask for a deterrent to destruction, not only a promise of control after it has started. A curfew is an effective emergency weapon to curb destruction, but it penalizes the innocent far more than the guilty. Use of a curfew for long periods in itself could destroy large segments of commerce. If sufficient police are patrolling this city, are seen in large enough concentrations and numbers, and are known to be authorized to enforce the law with all means necessary, serious rioting, arson, and looting will never have the chance to begin. If sufficient police are unavailable, there are in the area of Washington and at the disposal of the Commander-in-Chief more than sufficient troops to provide the necessary show of force. It would seem preferable to show force before, rather than to have to use it afterwards.

It is obvious to all that the existing number of police does not allow adequate protection, especially when their effectiveness is reduced drastically by imprudent restraints. We, therefore, ask that troops be placed on duty to supplement the police forces prior to and during the impending demonstrations, that they be made clearly visible in sufficient numbers to provide an overwhelming show of force, and that the President of the United States and Government of the District of Columbia make a public statement of policy that the police and the troops will be authorized and directed to use all force necessary to assure the peace and order of the community, and that the courts will support them.

You have taken the oaths of the highest offices of this land that you will to the best of your abilities preserve, protect, and defend the Constitution of the United States. That Constitution guarantees the rights of the citizens to live in peace and free from fear. We citizens now call upon the executive, legislative, and judicial officers of the United States and of the District of Columbia to fulfill their oaths of office.

Very truly yours,

PARK AND SHOP, INC.

[From the Washington (D.C.) Evening Star, May 22, 1968]

SOUTHERN UNIT MARCHES INTO DISTRICT TODAY: 1,000 ARE EXPECTED FOR PARADE ACROSS MEMORIAL BRIDGE

Members of the Poor People's Campaign were to return to Congress today as a follow-up to two marches and a two-hour sit-in outside the House gallery yesterday.

Some 400 campaigners from the Southern contingent, who have been staying in nearby Virginia churches, were to march across Memorial Bridge today to take up residence in Resurrection City, where problems of housing, discipline and logistics continue.

Although there are only some 400 members to the Southern contingent, Southern Christian Leadership Conference officials said they hope to have "at least" 1,000 for the Memorial Bridge march. White suburbanites had been urged to join in support.

TOURS WITH STARS

The Rev. Ralph David Abernathy, president of SCLC, said late yesterday that the marchers would go back to Congress and to the agencies of government.

Abernathy made the statement after spending more than four hours walking through Resurrection City eating dinner in the camp mess tent and examining the Sylvan Theater grounds and the steps at the Lincoln Memorial end of the Reflecting Pool as a possible entertainment site.

He made the later tour with Hollywood personalities Sidney Poitier and Robert Culp and the latter's wife, Frances. They discussed using the outdoor theater near the Washington Monument for theatrical events for the residents of Resurrection City. A group of 200 Hollywood stars has promised to offer free entertainment for the group while it is in the city.

Earlier in the afternoon Abernathy made a major change in plans when he announced that a massive march scheduled for Memorial Day would instead be held June 19.

"On this occasion we are calling upon all citizens of this nation who are morally outraged at the existence of poverty in the midst of America's wealth and prosperity to join us," he said.

The first Washington marches of the campaign also took place yesterday when the Rev. Jesse Jackson, city manager of the camp site lead two marches to the Capitol.

A march scheduled from the tent city to the John F. Kennedy grave in Arlington Cemetery was canceled.

Early in the day three contingents of campaigners, each 50 to 75 strong, marched to the Hill to sit in on committee hearings.

SILENCE PREVAILS

Then at 3:30 p.m. Jackson led a slow-moving group of 250 marchers up The Mall to the Capitol. Complete silence prevailed—even the blue-jacketed marshals passed their

instructions in hand signals or whispers. Marching to the fore, setting the slow pace, were a 3-year-old boy and a mother with babe in arms.

Finally, after many interruptions caused by discussions with police, the first of the poor people were admitted to the visitors gallery of the House—five minutes after Rep. Albert Watson, R-S.C., attempted to link the campaign with "known Communists."

Another five minutes elapsed, and with only 36 of the marchers seated in the gallery the House adjourned.

Just as Speaker John McCormack called for the adjournment vote, a young dark-haired white man in coveralls leaped to his feet in the back of the visitors' gallery and shouted: "You've got till June 27th."

"Throw him out" cried a voice from the Democratic side of the House, and doorkeepers converged on the young man and hustled him out of the gallery.

The rest of the marchers sat where they were in the emptying gallery, until Rev. Jackson appeared and beckoned them outside. After a brief sit-in, the marchers left at 6:20 p.m. under heavy police escort. The last contingent of 23 demonstrators was accompanied by 26 Capitol Police officers.

"SECRETIVE MEETING"

In his speech Watson charged that the Communists had been close to but not a part of the Poor People's Campaign.

Watson made a careful distinction: "I am not in any way accusing the leaders of this campaign of Communist party affiliation, nor am I suggesting that Communist elements are in control of the campaign.

"But I am going to inform the House of a highly secretive meeting which took place last month in Atlanta, Ga., that definitely links prominent members of the Communist party with Southern Christian Leadership Conference leaders."

Watson proceeded to recount details of the meeting April 25 and 26 of the board of directors of the Southern Conference Education Fund.

The SCEF, Watson said, has been cited as a Communist front by the Senate Internal Security Subcommittee and shares some members with SCLC, organizers of the campaign.

"I am not saying the SCEF controls the SCLC or vice versa" Watson said. "But the two organizations have been inextricably woven together through mutual membership." He said campaign leaders are falling into a carefully-prepared Communist trap.

CONFER WITH JACKSON

Outside the Capitol following the House adjournment the campaigners waited while McCormack and Rep. John Conyers, D-Mich., conferred from 6 to 6:15 p.m. with Jackson.

Later Conyers and Jackson had no comment on what the discussion was about but McCormack described it as "just a social visit."

However, he added that "we talked about civil rights legislation but only as a moral issue which it is." He indicated there was no discussion of specific legislation.

Apparently in answer to the Watson charges, Jackson said:

"We are not Communist inspired. We are hunger-inspired. Our representatives in Congress have misrepresented us just as Watson did in the House today. They haven't fought our fight."

Many of the marchers raised clenched fists as they turned to walk down The Mall to Resurrection City.

Retracing their route to Resurrection City, the procession lacked the dozens of reporters and television cameramen who had recorded the trip to the Capitol earlier. Spectators from the office buildings were not white collar workers this time, but cleaning women.

At Seventh Street, reached at 7 p.m., the procession leaders broke the silence of the demonstration with a spirited, hand-clapping civil rights song: "Ain't Gonna Let Nobody Turn Me Around."

[From the Washington (D.C.) Evening Star, May 22, 1968]

TENT CITY LOSING 500—MANY FOR UNRULINESS—SOME ARE HOMESICK, BUSES TAKE 100, INCLUDING MEMBERS OF BLACKSTONE GANG

As many as 500 Poor People's Campaigners will have left or will have been sent home by Friday—most for disciplinary reasons.

At least 100 left yesterday in chartered buses. Most had come from Chicago and Philadelphia, others from Pittsburgh, Cleveland and Cincinnati. They included members of the Blackstone gang from Chicago. Saturday night, about 39 from Chicago were sent home.

The Rev. Andrew Young, executive vice president of the Southern Christian Leadership Conference said some of the demonstrators left for reasons of discipline, health or homesickness.

CRITICAL OF DEPARTURE

The departures were among the most discussed topics among the campers in West Potomac Park last night.

"Man, seeing them leave just made me sick," said one young man. "Just one little thing happened and these people are going home." (He referred to a fight that reportedly took place Monday night in Resurrection City.)

"They should have got themselves together and worked out their problems . . . not just go home for one little thing."

An old woman standing outside the city's main gate commented on several fights which have broken out in or outside the camp. She said:

"When they is fighting, they is hurting the city. I think they should have been sent home." She was referring to the Chicago youngsters who were asked to leave.

A Puerto Rican girl from New York City observed, "SCLC has given us a chance to do all these things we've been talking about for a long time, and now all those people are leaving. It is not right."

Buses waited yesterday for their passengers to Chicago and other large cities, and for Marks, Miss., and Selma, Ala. They were to carry the old, the young, and the obstreperous city gang members who have not succeeded as camp marshals.

GANGS GET ON FIRST

The gangs, particularly those from Chicago, got on the buses first, leaving old people, women and children outside while they sat more than an hour waiting for departure.

A white Catholic priest, born in Ireland and serving in Chicago, said sadly, "That's the way it always is—the strong in the bus, the weak outside."

A woman who said she has 11 children back in Chicago said of the campaign, "It's all a mess of confusion. There's something wrong with it."

Another woman wondered over the departures: "I had no idea so many people were leaving. At this rate there won't be nobody left by Friday."

A white man from Chicago complained that "a woman in our area was attacked by one of the marshals last night. She got a black eye." He said, "I thought I was coming up here for a good cause. . . ."

"You've got to have unity before you can do anything," said one young woman, who considers that the campers were divided by sectionalism.

"I done had it," she said. If no more buses came, she declared, "We'll walk. I walked out a pair of shoes before."

Controlling gang youths from big cities appears to have become a tough problem for the rural-oriented SCLC and its campaign.

Yesterday, five members of a Detroit street gang with sticks and clubs in their hands threatened to beat up a news magazine photographer for taking their picture near the campsite.

The photographer and a news magazine reporter were about 20 feet away when one of the youths shouted an objection. The newsmen turned and began walking toward the campsite when the youth, followed by four other members of the gang, ran toward them, waving their clubs, swearing.

GRABS AT CAMERA

One grabbed at the camera around the photographer's neck and told him he was going to take the camera and break it because "you can't take pictures here."

The youths continued shouting obscenities and threatening the photographer as he walked toward the drive near the Lincoln Memorial end of the campsite. As the group neared watching police, members of the gang began arguing with officers who told them to return to the corner where they had been standing, waiting for a bus to take them back to Detroit.

The newsmen said the same group earlier had been seen beating up a white construction worker who had been running a digging machine at the campsite and had taken some pictures.

Mr. Young, arriving at the site and informed of the incident, said, "That's the ones who are going. That's why we're sending them back."

[From the Washington (D.C.) Evening Star, May 22, 1968]

SWEET WILLY'S GROUP INVADES BALLOU HIGH

Lance (Sweet Willy) Watson and a dozen members of his Memphis "Invaders" gang walked into Ballou High School in Anacostia yesterday and told the principal they wanted to have an assembly.

The principal told the group from Resurrection City that they could not have an assembly, that all assemblies for the year had been planned and asked them to leave the school without disrupting classes.

The group, however, stayed at the school, arguing with teachers and roamed the halls for about an hour during which time firecrackers were discharged and the fire alarm was set off twice.

The students followed, shouted and giggled, but went to their classes when told to.

Sweet Willy said the visit to Ballou was on the invitation from students.

Sweet Willy and his boys (some of his group were accused of starting the violence in the Memphis garbage collectors strike) went to the school's auditorium during the lunch break in an apparent effort to hold an assembly. Only about 35 students showed up.

The group then returned to the office of Principal Joseph P. Carlo and repeated the demand for an assembly.

Carlo said the schedule was full, and told them to contact the D.C. School Board to make arrangements.

While the group was in the school, the fire alarm was pulled twice, and five or six firecrackers were set off outside.

When a policeman from the 11th Precinct arrived in the school's office and asked the group to leave, they did so. A paddy wagon called to the school was not needed.

"This was not nonviolent," Carlo said. "It disrupted the education of 1,400 students. . . ."

As the group left, Sweet Willy said, "Okay—Eastern High now."

After leaving Ballou High School, the two carloads of youths drove to Eastern High School, where they spoke briefly in the cafeteria. Their presence seemed to have little effect on the students there and the cadets in the armory across the hall continued preparation for afternoon drill.

PRINCIPAL REBUFFS MARCHERS

(By Willard Clopton Jr.)

A dozen youngsters from Memphis, who are serving as marshals at Resurrection City, paid a noon visit to Ballou High School in Anacostia yesterday where they sought unsuccessfully to hold a special assembly to explain the goals of the Poor People's Campaign to the students.

The group, members of a street gang known as "The Invaders," was led by a tall, thin former Memphis disc jockey who gave his name as Sweet Willie Wine.

Wine had a tense meeting with Ballou's principal, Joseph P. Carlo, who refused to allow the assembly on grounds that it would be "disruptive" to school routine.

"What's the matter—are you scared of what your students are going to hear?" Wine asked.

Carlo replied that "Whatever is done in the schools regarding for the Poor People's Campaign should go through the Board of Education."

Wine said, "We want a peaceful assembly, Sir. We're going to be nonviolent. When Stokely and Rap Brown go on campuses and tell students to burn, do you think they go through the school board?"

Carlo answered: "I have confidence that the young people of this school know right from wrong."

Carlo, who is white, appeared irked by Wine's allegations that the school discriminates against "black people."

"You seem to be hung up on that," Carlo said. "I don't see people as black or white. They are all people."

After asking the group several times to leave, Carlo phoned police. A policeman arrived and placed a call for a patrol wagon, but Wine and his followers left before it came.

As they left, Carlo remarked, "This is not nonviolence. Their rights and privileges end when they disturb the rights and privileges of others, and somebody had better make them realize it."

Outside, Wine attracted a group of about 50 students, whom he told: "We are not trying to take over the Nation . . . We are trying to de-brainwash the white man, who doesn't know what it means to see a baby bloated from malnutrition."

The group then drove to Eastern High School, where they talked briefly with several students in the cafeteria.

COLLEGES DENY FACILITIES TO POOR MARCH CLASSES

Washington's five universities have denied the use of their classrooms and dormitories for a planned Poor People's University in connection with the Poor People's Campaign.

A joint statement issued through the Consortium of Universities said: "Sympathetic as the five universities are to the expressed goals and aspirations of the Poor People's University, they have the important obligation to insure the normal operations of their educational institutions and they will be unable to provide either dormitory or on-campus classroom facilities for out-of-town college students."

Southern Christian Leadership Conference staff members planning the three-week Poor People's University to begin May 29 had asked for use of the facilities two weeks ago.

"This will create a lot of difficulties," Bill Treanor, SCLC staff worker who met with the university president earlier, said yesterday.

"It means we will have to hold a lot of classes outside in the Mall area. We would rather do it in a more orderly fashion."

Treanor said he doesn't know where the visiting college students, whose number SCLC estimates from 5000 to 15,000, will sleep. "This is a problem the universities and the District Building evidently are unwilling to face," he said.

The Consortium statement did not elaborate on reasons for turning down the SCLC request. Sources within the University officials, however, cited several reasons: Time is needed to renovate dormitories before summer sessions begin; some space has been previously committed to other groups, and SCLC did not supply specific information on the facilities needed.

A lengthy list of actions related to problems of race and poverty planned or being carried out by each school was attached to the Consortium statement. Many faculty members and local students are participating in the Campaign as individuals.

The five universities are American, Catholic, Georgetown, George Washington and Howard.

POST OFFICE DEPARTMENT AWARD TO SENATOR MONRONEY

Mr. BREWSTER. Mr. President, the distinguished senior Senator from Oklahoma was the recipient of a most well-deserved award from the Post Office Department a few days ago. In connection with the 50th anniversary of airmail, he was given an award for "his outstanding contributions to the American people in recognizing the importance of air transportation to the movement of priority mail."

Senator MONRONEY has been one of the Nation's most articulate and effective advocates of air transportation. He has made a lasting contribution to the aviation industry and the postal service. He was instrumental in the development of the program of airlifting first-class mail.

The award to Senator MONRONEY was made by Postmaster General Marvin Watson at the issuance of the stamp commemorating airmail's golden anniversary. I ask consent that the Postmaster General's remarks be printed in the RECORD.

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

AIR MAIL 50TH ANNIVERSARY COMMEMORATIVE STAMP DEDICATION

I feel privileged that my initial first day ceremony as Postmaster General concerns such an important stamp.

I know the President shares my view, for when I told him of this ceremony, he asked me to give you a a personal message. He said, "This Air Mail Fiftieth Anniversary issue reminds all of us of one basic fact of American life.

"Though man's reach may always exceed his grasp, when he has the courage to reach, here in this great land of ours, his grasp has always exceeded his hopes."

I think that expression reflects much of the meaning of America.

This is a land of opportunity and of achievement.

It is a land in which those who search out and seek out opportunity have not only an excellent chance to achieve, but time and again have achieved far more than they expected.

Certainly this stamp illustrates that point.

A few men had a vision of mail delivered by regular air service. Most thought it the wildest of dreams.

But men with the dream succeeded in transforming that vision into hard fact and brilliant success.

I am proud to note that the Congressional father of air mail, Representative Morris Sheppard, was a Texan.

Congressman Sheppard was familiar with frontiers and difficulties. He knew the nation deserved to have the power of flight fully exploited for the public benefit. His determination and enthusiasm enrolled the support of fellow Members of Congress, many of whom had to convince colleagues about the practicality of a form of transportation some of them had never seen. For in those days the airplane was a form of unidentified flying object.

This tradition of Congressional leadership and initiative has served the Post Office Department well in the past.

It is serving equally well today. Senator Monroney and others in the Congress have consistently fought for progress in the nation's mail service. Senator Monroney, in fact, is to the air mail service of today what Congressman Sheppard was to yesterday.

For that reason, Senator, we have a surprise for you here today.

Yesterday, it was my privilege to present to the air mail pioneers a special flight certificate in honor of their achievements. These awards are the only ones of their kind.

At the same time, the Post Office Department also prepared one other award, also one of a kind.

It is for leadership and support in the highest tradition of the men who first dreamed of air mail.

The Citation reads: "United States Post Office Department hereby recognizes Senator A. S. (Mike) Monroney on this, the 50th Anniversary of the Air Mail Service, for his outstanding contributions to the American people in recognizing the importance of air transportation to the movement of priority mail. Faster and more effective postal service has resulted from programs promulgated at his behest to encourage and accelerate development of the aviation industry."

Senator, on behalf of all of us, it is an honor to make this presentation to you.

It is an honor, as well, to have with us here today so many of those pioneers who first brought the air mail through. These were men whose beacon was a thin line of courage.

Through their example, and that of other air pioneers, the nation began to accept the reality of air transportation. From that small beginning . . . from that first realization of what once seemed the impossible dream . . . our nation's aircraft industry grew.

Now we are far from the day when air mail was a matter of faith and valor alone. Now we are truly entering an era which is even beyond the dreams of those men of 50 years ago.

Today, air mail is the most commonly accepted and preferred means. Virtually all first class mail which can be effectively airlifted is now so moved and almost 80 per cent of all letter mail now travels by air. We are rapidly approaching the time when air mail and first class will be merged into a single priority service.

This progress is in the very finest tradition of our nation and in the very finest tradition of those men whose courage and vision made it possible.

Today we commemorate not only an event, but we reaffirm the power of man to harness the laws of nature for the good of all.

Today, we have an aviation industry that is the finest in the world.

Today, we have an air mail service second to none, a service that refuses to rest satisfied with past success but which insists on improving and expanding building from excellence to greater excellence.

And today I am proud to salute all those who have contributed to this great reflection of a dynamic America. They have followed a star. They have fulfilled a dream. They have added a vital chapter to the story of American success.

PRESIDENT OF BELOIT COLLEGE SPEAKS FOR THE UPPERDOG

Mr. NELSON. Mr. President, President Miller Upton, of Beloit College, Beloit,

Wis., wrote an interesting article for the March issue of Social Service Outlook in which he commented upon our present day social issues.

Mr. Upton said:

It is enough at this stage of our development to aspire to create a decent society. And to do so our first task is to help each individual be decent to himself and in his relationship with other individuals.

In his treatise, in which he says that the upperdog is being unfair in his own self-appraisal, he states:

In the final analysis our compassion should be expressed for people—whether they be white, black or yellow; rich, poor or middle class; genius, average or moron—any who suffer a poverty of spirit.

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

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

IF THIS BE HERESY

(By Miller Upton)

I have just about reached the end of my tolerance for the way our society at the present time seems to have sympathetic concern only for the misfit, the pervert, the drug addict, the drifter, the ne'er-do-well, the maladjusted, the chronic criminal, the underachiever, the loser—in general, the underdog. It seems to me we have lost touch with reality and become warped in our attachments, if not in fact psychotic.

In short, I feel it is time for someone like me to stand up and say, "I'm for the upperdog!" I'm for the achiever—the one who sets out to do something and does it; the one who recognizes the problems and opportunities at hand and endeavors to deal with them; the one who is successful at his immediate task because he is not worrying about someone else's failings; the one who doesn't consider it "square" to be constantly looking for more to do, who isn't always rationalizing why he shouldn't be doing what he is doing; the one, in short, who carries the work of his part of the world squarely on his shoulders. Not the wealthy, necessarily, not the ones in authority, necessarily, not the gifted, necessarily—just the doer, the achiever—regardless of his status, his opulence, his native endowment.

We are not born equal; we are born unequal. And the talented are no more responsible for their talents than the underprivileged for their plight. The measure of each should be by what he does with his inherited position. No one should be damned by the environmental condition of his life—whether it be privileged or underprivileged.

It is a dying fashion to pay respect to those who achieve—who really "have it"—to use the vernacular. This is the day when the fashion is to be for the underdog. The attitude is being developed that if you really want people to care for you (and who doesn't?), don't be successful, be a misfit, a loser, a victim of one's environment.

I'm not entirely sure of the reason for what appears to me to be a general social psychological aberration, but I suspect it springs from a massive social guilt. Each of us individually is so aware of our personal limitations that we have developed a form of masochistic reaction to problems of the day. Instead of attempting to deal with the problems in a forthright way, we berate ourselves, we martyr ourselves, we pillory ourselves. Or if the problems seem too much for us to handle, we mitigate our sense of guilt by heaping all blame on convenient scapegoats or by concerning ourselves with the problems of others at a conveniently remote distance.

Let me illustrate my point by specific reference. I have become increasingly bored and resentful of the ridicule and snide references made of the WASPS (the white, Anglo-Saxon, Protestant suburbanites). I wouldn't feel the point so strongly were the criticisms leveled by those outside of the circle. Such could be looked upon as healthy social criticism and competition. But when it mainly comes from those who are part of the circle—WASPS stinging themselves—it assumes the nature of sick self-immolation.

Our society's treatment of the Negro over the years is deplorable. In fact, that's too mild a term for it. The word "sinful" in its full theological sense is more accurate. But this fact does not justify us in our sense of guilt condemning a particular segment of society which in many ways constitutes the backbone of American social existence. If damning by association is wrong, as I would maintain strongly it is, then how horribly wrong it is to level our guns of hostility, envy, and ridicule in this fashion on the successful white man who more often than not struggled financially to get a college education, who more often than not works at his job more than 60 hours a week, who buys a comfortable home in the suburbs with the welfare of his family in mind, who is active in his church and community affairs, who gives his time to service on boards of education and social welfare agencies, and in some cases is shortening his life span through overwork and anxiety resulting from the basic social responsibilities he must carry.

These are among the chief doers and achievers of today. And where would our society be without them? For one thing, we could not afford to have a major portion of the population going to school for 12 to 20 years. Nor would we enjoy the leisure time recreational activities, and cultural advantages which are a direct product of our material welfare. However, there would be one by-product advantage: We would have to be so concerned individually with eking out our own meager existence that there would be no time to be wasted on such irrelevant and dishonest name-calling and buck-passing.

Or, just as we point an accusing finger at those who succeed within our economic system, so we accuse the system itself of faults which are not of its creation. In short, we tend to blame the economic system for the faults of individuals who operate within it. It is important to recognize that the quality of any society is directly related to the quality of the individuals who make it up. Therefore, let us stop referring naively to creating a "great" society. It is enough at this stage of our development to aspire to create a decent society. And to do so our first task is to help each individual to be decent unto himself and in his relationship with other individuals. A decent society cannot be created out of a vacuum and imposed. It can only evolve out of the lives of constituent members. In this regard, our economic system has become the scapegoat for the failures of our educational, religious, and family institutions to develop decent and responsible individuals.

Whenever one blames another or group of individuals for one or more of the ills of mankind—beware! He is expressing personal hostility and offering no solution. There is no single scapegoat for the world's ills, unless it be our own personal limitations as finite beings.

TODAY'S MORALISM

Also, the Puritan ethic and religious morality in general have come in for some heavy-handed humor and disdain. I can support that criticism which focuses on arbitrary value judgments. But we seem to be in the process of developing a much more perverse kind of moralism—a moralism which says that since love is the one absolute virtue of man, the one way we will solve the problems of poverty, crime, racial discrimination, and the like is by forcing everyone to love everybody else—we must love the white man because he is white, or the black man because he is black, or the poor because he is poor, or the enemy because he is the enemy, or the perverse because he is perverse, or the afflicted because he is afflicted! Rather than because he is a human being, any human being who just happens to be white or black; poor or rich; enemy or friend.

This is a hideous abuse of the notion of love that avoids the hard fact that love is a uniquely personal experience. If it is idle to attempt to legislate individual morality, it is even more idle, and even arrogant, to attempt to force individual love. There can be no love unless it is genuine and authentic. To love, or go through the pretense of loving, without truly feeling that way is one of the lowest forms of hypocrisy. It is dishonesty at its worst. And the fruits of such dishonesty, as with all forms of dishonesty, is distrust, degradation, chaos. We should respect all people so much that we would not dare demean one by pretending to love him when we don't.

Here is the evil I see about us so much at the present time: Love is expressed in a masochistic way—as a duty to be performed rather than a blessing to be received. The notion is current that to love is to sacrifice, that the Good Samaritan was good because he put himself out. We should sacrifice ourselves for the poor because we feel sorry for them, we should sacrifice ourselves for the dispossessed because we feel sorry for them, we should sacrifice ourselves for the retarded because we feel sorry for them, and so forth.

What a tragic confusion of motives! This is not love; this is a sick desire to be loved. It is a perverse and futile attempt to escape the pain of guilt. If you would put my claim to a test, just make a date sometime with a woman who doesn't go out very often and then tell her you did it because you felt sorry for her.

We need to start being honest with ourselves in more ways than one. It is too bad that we have failed to heed the charge that Polonius made to his son: "This above all, to thine own self be true." For were we to do so we would have to admit honestly and joyously that love in its very essence is selfish. Were it not so, there would be none—not real love, only a martyred imitation.

Our loving should not be restricted to the poor and dispossessed but should be offered to all. It is in the act of loving that we are redeemed—not in loving the poor alone. And it is in the personal redemption of each individual that the hope of the world exists, not in the changing of the other person.

To love is to give. But it is in giving that the giver receives his reward—his sense of belonging, of being accepted, of being needed. To give because you think you are expected to or because you hope for something in return is not true giving—it is hope for receiving, and therefore frustrating.

THE POOR—IN SPIRIT

The only people I feel sorry for are those who feel sorry for themselves. And this state of mind has nothing to do with wealth or poverty, intelligence or ignorance, prestige or ignominy. I am impressed with the large number of well-to-do people who commit suicide each year, probably a higher proportion than among any other group. This act to me is the ultimate evidence of poverty of spirit, and this is the basic poverty we should be concerned about. In the final analysis our compassion should be expressed for people—whether they be white, black or yellow; rich, poor or middle class; genius, average or moron—any who suffer a poverty of spirit.

And to be authentic, this compassion must spring from real contact with a situation which our love can affect and not with a figment of our imagination. How dare we be so insolent as to speak of creating a great

society when we aren't even capable individually of creating a healthy home environment?

The hardest task in the world is to love the person at hand—your roommate, your brother or sister, your wife or husband, your parent, the man across the counter, or the desk. It is so much easier to love in your imagination the Saigon waif than it is actually to pick up in your arms and hold firmly and lovingly the emaciated, sore-covered body of the unwanted child that can be found in any American city or town.

THE WAY TO PROBLEM-SOLVING

This kind of ersatz compassion is not humanitarianism; it is escapism. It is the mental process by which we try to kid ourselves into thinking we are better than we really are. It is the psychological process by which man hides from the realities of the here and now by caressing his ego through *imagined* concern for the there and later. It takes no personal courage or sacrifice to bleed and die in one's mind for the remote victim of oppression, poverty or disease. But it requires supreme courage and compassion and understanding—true love—to turn to your neighbor, extend your hand, look him in the eye and tell him why you like him or don't, as the case may be.

We have serious problems and issues facing our society at the present time. Let there be no doubt about it. But they can be solved over time if we will attack them directly and honestly; that is, if we will be willing to pay the price in time and persistent personal effort. They will never be subject to instant solution—to wishing it so. Nor will they be solved by blaming others for their existence, or by making certain segments of society the scapegoat for the general ills of society. Nor will they be solved by running away from them by concerning ourselves with remote situations rather than those at hand. Nor will they be solved by application of the perverse notion that to love means only to sacrifice one's self.

The one most certain point is that they will be solved by doers, not people with good intentions but individuals with good deeds. Not those who talk a good game but those who play a good game—the achievers. We will never create a good society, much less a great one, until individual excellence and achievement are not only respected but encouraged. That is why I'm for the upperdog—the achiever—the succeeder: I'm for building an ever better society and this will only be done by those who take seriously their responsibility for achievement, for making the most of their native ability, for getting done the job at hand.

VIETNAM PEACE NEGOTIATIONS

Mr. PEARSON. Mr. President, the Paris peace talks, or the "official conversations" as they are formally called, fill us all with a mixture of hope and frustration.

The term of the negotiations will be long and, of course, difficult. For example, the talks to date have not even resulted in an agreement that both parties seek the same general and broadly worded goals.

Both sides, perhaps the United States as a necessary response, have adopted a "fight and talk" strategy so that each, supposedly, may negotiate from a position of strength. But the danger is that such a strategy will be rewarding only if there is an overwhelming military accomplishment on either side.

Thus, the peace talks are leading to a war larger in scope and greater in intensity. This draws us further away from the purposes of the Paris talks. The incidents of the accelerated day-by-day fighting cloud each and every talking point, the fighting hamstrings the allies of each side, it hinders the efforts of good faith third parties. And it is, in the destruction of life, a mounting obstacle to a just and fair peace.

In the week before last, 562 American men died, and 2,225 were wounded; 675 South Vietnamese died. The Communists, we are told, paid a greater price as it is alleged they lost 5,500 men, which would bring their total dead this year to 92,390.

Mr. President, it would seem that if there is any priority in this critical period, it is that our Government move quickly and at the earliest time to achieve a cease-fire. A cease-fire would save lives and would promote the cause of peace. If a cease-fire cannot be totally achieved, we should make a renewed effort to find some means of deescalating the war.

We should present to the North Vietnamese representatives in Paris a specific cease-fire plan, or at the very least a detailed plan for deescalating hostilities. To some extent this has been done in relation to the DMZ.

They may not accept it. But if they do, surely we and certainly the Vietnamese people will be the better off if the strategy of "fighting while talking" is replaced by a cessation or a reduction of hostilities while the negotiators in Paris probe for the outlines of a permanent settlement.

If they reject the offer, we will not have been hurt. Indeed, the presentation of a direct and reasonable proposal by the United States should strengthen our status in the eyes of the world community. The rejection of such an offer would surely erode the credibility of the North Vietnamese position.

The North Vietnamese may have no intention of abandoning a fight and talk strategy. But if they are determined to try to write the rules of negotiation in blood we should be equally determined to offer a sane and sound alternative. We are in a position to take a renewed intiative for peace. We should act upon it.

CANADIANS PROVE RAIL MASS TRANSIT SYSTEMS WILL ATTRACT RIDERS

Mr. WILLIAMS of New Jersey. Mr. President, recently I had the privilege to preside as chairman of hearings before the Subcommittee on Housing and Urban Affairs of the Committee on Banking and Currency on railroad mergers and mass transportation. During these hearings, the subcommittee was presented with convincing testimony that efficient, well-advertised, and frequent rail service will attract commuter passengers.

Convincing evidence of this fact has recently been provided by our Canadian neighbors. Faced with the growing need for modern commutation services in the greater Toronto metropolitan area, the Province of Ontario has developed a modern, rapid, rail transit service. The total capital outlay for this system was $15 million. This contrasts with the estimated cost for a six-lane expressway in the Toronto area of between $3.5 million and $4 million per mile.

During the first 4 months of operation, the Toronto service, called Go Transit, carried a million passengers, and it has been reported that ridership is steadily increasing.

It is my hope that city planners in the United States will take notice of this convincing example of the fact that mass transportation provides an efficient and much less costly alternative to solving this most pressing problem than highways.

Mr. President, the Toronto Mass Transit System was recently described in an article entitled "Riders Flock to GO Transit," published in the April issue of Modern Railways. I ask unanimous consent that this informative article be printed in the RECORD, so that all Members of Congress may read for themselves all of the facts concerning this most noteworthy achievement.

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

RIDERS FLOCK TO GO TRANSIT—TORONTO'S NEW COMMUTER SYSTEM, SUBSIDIZED BY GOVERNMENT OF ONTARIO, CARRIES MORE THAN 16,000 RIDERS DAILY

(By George E. Toles)

In its first four months of operation, GO Transit in Toronto, a government-subsidized railroad commuter service, carried one million satisfied passengers. GO Transit may well serve as a model commuter line for numerous urban areas wrestling with transportation problems.

GO Transit, short for "Government of Ontario Transit," which was inaugurated in May, 1967, to rush commuters directly into downtown Toronto, has taken about 3000 automobiles off the highways daily and reduced the drivers' transportation expenses.

The insatiable demand of the automobile for more running room put the Ontario government into the commuter railroad business. Actually, Canadian National operates GO Transit over its main line tracks along Lake Ontario under a service contract with the Province of Ontario. The government provides a subsidy of $2 million a year to meet operating costs above fare-box receipts.

Because of the high cost of highways in both land and dollars, the provincial government decided to embark on the project to determine whether a rail commuter service could reduce the need for building expensive freeways in highly populated areas. The capital outlay to start GO Transit was $15 million—$7.8 million for trains, the rest for stations, track, and signals. In contrast to this modest expenditure, the current cost of a six-lane expressway in the Toronto area is $3.5- to $4-million per mile. Elevated expressways cost about $16-million per mile. In view of planning problems and the soaring cost of land in downtown cores, almost no place remains for highways but in the air.

Thus for about the same cost as one mile of elevated expressway, the province established the GO Transit line covering 60 miles from Hamilton on the west, some 40 miles from the U.S. border, to Pickering east of Toronto. Authorities estimate GO will carry over four million riders in its first year.

Service began with 17 trains daily. Now the complete Monday-Friday service consists of 51 daily trains, operating between 6 a.m. and midnight and running every 20 minutes during weekday rush hours and hourly at other times. On weekends and holidays, 36 trains are in service. GO officials had set a winter goal of 15,000 rides, but ridership reached 14,000 in September and quickly climbed to 16,800. Since this is close to the capacity of the operation, promotion and advertising were stopped. GO, thereupon, placed an order for 14 more coaches which permit

filling peak-period trains out to 10 cars, the maximum. In bad weather, ridership has hit 18,000 daily.

GO Transit's fares have been deliberately set to capture the automobile commuter but not set so low as to compete with other forms of public transportation which must remain viable. With the multiple-ride fare set at 3.5 cents a mile, GO authorities say that automobile commuters can save at least 60 cents to $1.40 per day traveling by rail between any station and Union Station. This reasoning considers out-of-the-pocket car operating cost of four cents per mile with one dollar added for a minimum daily downtown parking fee. Parking is free at GO stations.

Ticket books are sold for $5, $10, $15, and $20, with the number of tickets contained in each book depending on the distance between stations. Single-ride tickets cost 25 percent more than the multiple-ride fare, with a minimum price of 50 cents. Children less than 56 in. tall can ride to any station for 25 cents. The minimum fare by purchasing books of tickets is 42 cents for stations within a 12-mile limit. The maximum is $2 for a 60-mile ride between Hamilton and Pickering, the two outer stations. The Ontario Government recently announced fare reductions for students, who had been complaining about the cost.

In a survey of rider reaction taken in July, 87 percent of the passengers either commented favorably about the service or offered no criticism. Of the remainder, 10 percent wanted more trains.

All equipment for GO Transit is new and especially designed for this service. Both locomotive-powered trains and trains of self-powered cars are used in this service. All 49 cars were built by the Canadian Car Division, Hawker Siddeley Canada Ltd. Nine of these cars are self-powered, each being fitted with a 330-hp, Rolls-Royce diesel engine. The eight 3000-hp locomotives are manufactured by General Motors Diesel Ltd.

In designing this equipment, engineers have taken advantage of the great strides made in recent years in the development of aluminum sheets and extrusions. The coaches weigh 68,000 lbs., and the self-propelled cars, 88,000 lbs. These weights represent a savings of 40 percent on the coaches and 20 percent on the self-propelled cars over any similar equipment operating in North America, say GO officials.

These weight savings—achieved without sacrificing capacity or the strength required for railroad service—reduce operating costs and maintenance required on both the track and the cars themselves. The design involved a high degree of standardization and interchangeability of components to facilitate conversion of the coaches to self-propelled equipment if operations require it at a later date.

GO CARS HAVE BRIGHT INTERIORS

Since the service is designed to compete with transportation by private automobile, a great deal of consideration was given to the decor and interior appointments. The result is a bright, attractive appearance coupled with easy cleaning and maintenance. To the patron, comfortable seating is paramount; hence, two-and-two seating is employed in each car, with 94 individual bucket-type seats, specially designed for shorthaul commuting. Seat shells are made of fiberglass-reinforcement plastic, softly cushioned with air-foam rubber and upholstered with a durable vinyl.

Seventy-two of the seats are in a fixed arrangement offering a selection of four facing positions. These are upholstered in black vinyl. The remaining 22 seats, finished in sand brown, are located in threes and fours longitudinally against the side walls at the exit bulkheads and at the center walk-through bulkhead which divides the 85-ft car into two compartments. One of the compartments seats 40, the other, 54. Aisle seats provide hand-holds for 22 standing passengers.

Each car is carried on two, four-wheel DOFASCO rapid transit trucks supplied by the Dominion Foundries and Steel Ltd. Wheels are 30-in. Coil springs, each located inside an air spring, carry the basic car load. The variable passenger load is supported by the air springs which in turn are controlled by a leveling valve, thus keeping the floor level regardless of the passenger load. Movement is dampened by hydraulic shock absorbers.

Each supporting member of the car frame has been specially treated to eliminate squeaks and rattles where it comes in contact with the interior lining of Arborite paneling. Eleven scenic windows, measuring 31½ x 51 in., are spaced along each wall. Toughened safety glass, specially treated to reduce glare and heat penetration while providing maximum visibility, is used throughout. The unusual ceilings consist of milk-white translucent plastic panelling illuminated by concealed fluorescent lighting.

To insure comfort under extreme weather conditions, each car is equipped with a complete thermostatically controlled air conditioning, heating, and ventilating system, known as the Vapor Injectair system. Refrigeration components are by Trane Co.

Since GO trains operate from low-level platforms, the entrances consist of extra-wide folding doors at both ends with steps leading to the vestibules. Electrically controlled from central points in the train, the doors are operated electrically by Vapor Dor-Trol door operators and permit double-stream passenger loading through their 54-in. width. Should high-level platforms be adopted in the future, the doors can easily be raised, and the step-wells removed to provide a straight walk-on entrance.

Eight of the coaches are equipped with a complete set of controls located adjacent to the forward righthand stairwell. These particular cars are spotted at the opposite end of a train from the diesel locomotive. The controls are train-lined for remote control push-pull operations. Thus, trains do not require turning at the terminals. When not in use, the controls are locked out; the floor swings up and the folding cab door closes over them, thus allowing use of both halves of the double-stream entrance for loading passengers.

In off-hours, one car, self-propelled trains may be operated. At other times, all nine of these cars may be coupled together. Each car is driven by a 330-hp Rolls-Royce diesel which is coupled to both axles of the nearest truck through a three-stage torque converter and a reverser gear box. These cars are identical to the locomotive-drawn coaches. They are capable of a maximum speed of 80 mph and carry fuel (350 Imperial gal.) sufficient for a normal day's operation. Auxiliary electrical power for heating, lighting, and air conditioning is provided by a 60-cycle, 550-v diesel generator mounted under the car. Seven of the cars are equipped with operating controls at one end only for use in multiple consists. Two cars have double-end controls for operating singly.

DIESEL LOCOMOTIVES PROVIDE POWER FOR ELECTRIC HEATING

Propulsion for the locomotive-powered trains is provided by eight Model GP–40TC General Motors diesel-electric locomotives. The TC in the model number stands for "Toronto Commuter" and indicates a modification of the standard GP–40 for this service. The main engine is a turbo-charged 16-cylinder, two-cycle model rated at 3000 hp. It provides power for a top speed of 83 mph and can accelerate a seat-loaded 10-car train from 0 to 60 mph in 2.3 min. in a distance of one and a half miles.

Fuel capacity is 1000 Imperial gallons, sufficient for seven hours of operation at full-rated capacity. A Canadian General Electric alternator driven by a 12-cylinder, 790 hp, V–149 Detroit diesel two-cycle engine is located behind the main engine and provides 470 kw 60-cycle, a.c. to power the heating, cooling, lighting, and ventilating equipment in the cars. The locomotive cab is equipped with two-way radio linked to the centralized traffic control operator. Train crew intercommunicating equipment is also provided. Dead man control is achieved by a Vapor Alertor. A Speed-Log adds to safety features. Locomotive weight is 259,000 lb loaded, giving an axle loading of 66,000 lb.

EARLY OPERATION AN EXPERIMENT

In speaking of GO Transit, Ontario's Premier John Robarts had this to say: "This rail commuter service was introduced as part of an over-all transportation study of the Metro Toronto region. It was planned that the early part of the operation—a period of about two years—would be devoted to experimentation on the best means of operating such a service to meet the needs of this area, and possibly other areas in the province."

The Hamilton-Toronto-Pickering lakeshore corridor had a 1964 population of 568,000 persons. The survey found that out of 90,000 who travel to work daily in an east-west direction, about 38,000 traveled into Toronto by auto. From responses to survey questions, it was estimated that some 15,000 of these auto commuters could be converted to rail commuting—if the services offered convenience, comfort, reliability, and economy. These were the degrees of priority established from thousands of answers tabulated.

In giving the green light to proceed with the project, Premier Robarts said: "This service is looked upon as something of a pioneering project insofar as it is the first time that any government in Canada has undertaken this kind of an operation to provide frequent and fast (suburban) mass transportation."

The Toronto-Hamilton line of the CN was the busiest in Canada even before the introduction of GO Transit. Now, with 51 additional trains, the 40-mile run is becoming a "super-line." In addition, 32 conventional passenger trains, 14 freight trains, and various switching moves use the line.

The job of fitting trains into time slots available and integrating commuter, conventional passenger, and freight services was a painstaking undertaking filled with complications. "We had to throw out eight or ten timetables—complete timetables—before we got one that would work," said Wilf Sergeant, who heads up commuter services for CN in Toronto.

A multi-direction approach was finally taken to clear enough track time to make GO Transit possible. To accomplish this, a third set of tracks was laid along portions of the busy existing double track. All three tracks were signaled for two-way operation. At 17 locations, trains can be crossed over from one track to another, permitting a fast train to skirt around a slower train. While the commuter trains run at fast speeds, their average speed is relatively low because of the large number of stops which they make. Hence, the operation of the line has been centralized in one large room in Canadian National's administration building. Here four operators route trains from a 36-ft centralized traffic control (CTC) panel supplied by WABCO's Signal & Communications Division.

MULTIPLE-ASPECT SYSTEM

As each train passes through a signal block, the light for that block on the track diagram flashes an appropriate color to indicate a particular type of train in that block—red for commuter, flashing red for conventional passenger trains, white for other trains, and green for indicating the route through the trackage. To permit operating trains closer together, a multiple-aspect signal system was adopted in place of the red-yellow-green indications of the conventional automatic

block signal system previously in use on this trackage. With the new system permitting flexible control, overtake situations are handled readily and slowdowns are minimized.

OUTSTANDING YOUNG BUSINESS LEADERS

Mr. BREWSTER. Mr. President, the May 1968 issue of Nation's Business magazine contains an article entitled "Today's Horatio Alger Heroes." It tells about some of the outstanding young men of today who will be the country's outstanding business leaders in the future.

It is with pleasure that I noted that the article particularly cites two young men from Baltimore who are well on their way to a fine business career while still in their early twenties.

One of them is Patrick M. Fahey, whom I met last year when he came to interview me for the highly successful magazine that he publishes. The other is Fred Cuomo.

Mr. President, these two young men, as the article points out, are typical of others across the country who are determined that they will "strive and succeed." I ask unanimous consent that the article be printed in the RECORD.

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

TODAY'S HORATIO ALGER HEROES

(By Wilbur Martin)

Horatio Alger's heroes were young men with burning ambition to "strive and succeed," poor boys who overcame poverty and disadvantaged backgrounds in the best American tradition.

Those countless thousands who thrilled to Ned the Newsboy and Alger's other young knights have all grown up, many to become today's business and industrial leaders. And, in nostalgia, they may ponder: Where are the candy butchers of old No. 9, the shoeshine boy and the waif on the corner with his financial extra?

Alger's fictional characters have their real-life counterparts, just as they always have. You can find them in the garment district of New York City, pushing dress racks along Seventh Avenue and dreaming of one day owning a manufacturing house of their own. Or ushering at NBC, ABC or CBS, striving to break into television, just as did hundreds of youngsters who clerked in the drugstores near Hollywood and Vine in Hollywood's heyday.

You can find them on college campuses. There are more of this type among the ivy than the mop-haired, bearded, beaded, sockless vocal searchers who flit from cause to cause.

Every businessman can look back on his own school days and remember "Working Willie," the boy who had a dozen odd-jobs to pay his way through school and finance Saturday night's date.

Today's counterpart to Alger's Ned the Newsboy is far more sophisticated, but his aim is the same: to succeed. A good example of the type of enterprise you can find on almost any campus is Patrick M. Fahey, 24, of Baltimore, president of Paladin Advertising Co. His vice president is Fred Cuomo, 21.

Fahey tells it like this:

"I was 21, going to the University of Baltimore and I wanted to pay my own way. I also know that when you go to get a job, businessmen ask you, 'What have you done,' even if you've just graduated."

Paladin Advertising Co. (from a character out of the time of Charlemagne but best remembered as a TV western Robin Hood type) was born with $75 and a printer willing to carry it on the cuff.

Its stock in trade is a sports directory that also lists every graduating student each year from the University of Baltimore (and grew to editions for 12 other Maryland colleges).

It also handles place mats for fraternity functions (courtesy of participating merchants), ads on the back of dance and raffle tickets.

Fahey tells his score of full-time campus employees that companies are looking for people who realize they must have something else beside a college diploma—some solid work experiences and a background of accomplishment.

To add a little more incentive than the 40 per cent commission, he had a contest and the top salesmen ended up with company titles: vice president, secretary, treasurer. Other good producers got a $3 gas allowance.

Along the four-year road, Fahey became the youngest member ever taken into the Baltimore Chamber of Commerce and the Advertising Club.

He also moved his company offices from his basement to an office of its own, a $10-a-month garage (no heat, but a rug on the concrete floor). And his mother, as Cuomo's still is the telephone answering service.

"The company's been fun," says Fahey, graduated now and 1–A in the draft.

"It has paid my way through college and given me something that I think I can either build on or give me terrific experience if I go to work for somebody else. It has also given me the down payment on some property."

Cuomo, who won an athletic scholarship to Baltimore as a soccer player, will be able to keep Paladin operating if Fahey goes into service—for a while. He's a senior himself.

Fahey unabashedly believes "opportunities are unlimited if you're willing to work" and "you can still make something out of nothing."

"Maybe it's corny to think like this. But you look at the people who made this country great. They thought like this and they did a pretty good job of it.

"What's wrong if you think you can still become a millionaire?" he grins.

THE NEIGHBORHOOD PHARMACY IS HERE TO STAY

Mr. NELSON. Mr. President, in the past several months I have heard some talk that our corner drugstores would soon be a thing of the past.

There are professionals in the medical field who feel that the pharmacy, as we know it now, will be supplanted by a team of therapeutic advisers, and that no reason would exist for the continuation of the corner druggist.

There may be some merit to the idea of a need to strengthen the medical team with a therapeutic adviser who would be a pharmacist, and that the profession of pharmacy would be upgraded thereby. This is certainly a premise which should be examined closely. Perhaps it will evolve by itself, as the need for this kind of skill becomes more apparent, as so many specialties and technical roles sometimes do.

But I doubt whether this role will ever prove to be the downfall of the neighborhood druggist. His role as a small businessman, as an adviser on a host of health matters, as a leader of his community, as a supplier of the essentials and the necessities of life, is a part of the comfortable fabric of this country.

I am certain that the neighborhood pharmacy is here to stay.

An article which dramatizes the importance of these businessmen-professionals was published in the Chicago Tribune of April 7.

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

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

THE NEIGHBORHOOD DRUG STORE: EVERYTHING BUT BANANA SPLITS

(NOTE.—Not long ago, Dr. James Goddard of the food and drug administration called corner drug stores old fashioned and said they should be eliminated. Our author, who is a free lance writer and school teacher, found them modernized, thriving, and their customers happy that they were. Someone at the FDA must have taken another look, too—anyway, the government agency later reassured everybody that there would always be a place for the small pharmacist.)

(By Viola Anderson)

"Sure, I know which couples are planning their families and, of course, the information is top secret, as sacred as motherhood." Pharmacist Eric, meticulously neat in white duck jacket, was speaking while counting capsules spread on the prescription counter.

"A young wife, a steady customer, came in with a pre-natal prescription and asked me to keep mum because she hadn't told her husband yet. . . . O, I don't know why. Perhaps she wanted to make a big deal out of breaking the news. A cozy dinner with candles and wine maybe.

"The eternal female. We love her. She comes in here with her dainty pillbox studded with fake pearls and rubies. After we fill it, she buys an armload of merchandise."

The platinum blonde cashier up front in this Broadway avenue store expressed her view on the neighborhood drug store, why it has withstood the depression, changing areas, and the onslaught of chain stores.

"The neighborhood pharmacist is father confessor, confidant, and personal friend, rolled up in one. Our customers tell Eric their private matters, stuff they wouldn't confide in doctors or closest friends."

A loafer-wearing, relaxed customer studying the brands at the cigar counter said that a trip to the corner drug store was part of his daily routine. "Many of us have a bit of the small town in us. With its hodgepodge of sunglasses, records, candy, magazines, postage stamp machine, baby foods, toothpaste, rubber gloves, fountain pens, lipstick, this store maintains a small town atmosphere. You can buy almost anything except a car here."

Manager Eric cut in: "If I had room, I would sell cars, too. Anything sells where there is traffic, and traffic is what we have plenty of in this store."

As he bit off the end of his cigar, the customer went on: "Instead of buying a 5 pack, I walk over every night for one after-dinner cigar because it's fun. Some of the neighbors are sure to be here, and Eric will call out, 'Hi, how are you?'

"The personnel seldom changes. Seeing the same sales people day after day develops friendships. They remember my favorite brands and save a copy of the Wall Street Journal for me."

Pharmacist Fred, in a drug store in Devon avenue, thought that the ethnic atmosphere some neighborhood drug stores create accounts partly for their success.

"Anyone feels more comfortable in familiar surroundings. Here we carry Christmas cards and holly-covered gift wrappings. But Sol, manager of a drug store near the lake, features bar mitzvah and Yom Kippur cards.

"Priests from the rectory down the street walk over, ostensibly to buy a newspaper or the season's card, a St. Patrick's day greeting in March, but actually they come to pass the time of day. After all, they can't go to a

bar, and usually a bit of malarky is going on around here."

A 30-ish man rushed in, picked up a magazine, waved it over his head, and walked out.

"O, that happens often," Fred explained. "Don't distract me until I charge Fortune, $1.50, to his account."

But did Fred know his name?

"O, sure. A neighborhood druggist knows the name and street address of most of his charge customers, in our case 75 per cent of our trade.

"Some charge accounts run $200. A newly widowed customer left a $96 order for us to ship to her daughter who is away at school. Jazz recordings, cosmetics, hair dryer, film, stationery. Because it was a tragic time for the widow, we wrapped and mailed the package."

What about the sign painted outside over the entrance? The foot-high letters "Cosmetics" overshadowed Prescriptions.

"Right now, the fashion dictators are on our side. We have allotted a third of the floor space to the cosmetic department. Customers ask for eyelash grower, shampoos that take the color out, shampoos that put it in, home permanents guaranteed not to wave their hair, wrinkle cream. We recently hired a cosmetic clerk who wears enough eye make-up to stop a watch. But, bless her, she does sell a lot of goo.

"The 8th-grade girls from the grammar school across the street are great cologne testers. We go along with them. On days that their class visits the Art Institute or the Museum of Science and Industry, they stop here first to buy pocket loads of candy, more than enough to pay for the whiffs of perfume. Some kids spend 70 cents on candy."

In a drug store in an area of bungalows a freckled-face boy carrying a 1st-grade reader under his arm, clutched a note in one hand and a $1 bill openly in the other. The clerk who took the note from him said: "The mothers send their kids here, trusting us to fill out their orders. I think our elderly customers might be frightened by a larger, strange store. Here we help them find what they want.

"The corner pharmacist in a modest income area such as ours must be knowledgeable. The customers rely upon him for many remedies, to avoid the doctor's fee. They balk at consulting a doctor about a sore throat or a nasty cut when a paring knife slips."

In an affluent suburban district, Pharmacist Al's customers also are reluctant to call their doctors for minor ailments, but for a different reason. A trim brunette wife with a Sassoon haircut volunteered: "If I bothered our pediatrician for every little ailment our kids have, he would think me balmy. He's a busy man.

"Sometimes, even for serious matters, doctors are not always available. For instance, on Wednesday or Sunday. Recently our 3-year-old daughter, Ann, had a reaction to a prescription, causing trembling, chills, and fever. Because our doctor plays golf on Wednesday, we couldn't reach him or the three others that we called. Though we know that pharmacists are bachelors of science, not M.D.'s, we phoned Al. He suggested that we, frantic by then, wrap Ann in a blanket and rush her to the emergency room of the nearest hospital. After some medication and a two-hour rest for her in the hospital, we three drove home, with Ann sitting between us, smiling and licking a lollipop the nurse had given her. Well, you know how we feel about Al now."

A father and his three sons, all pharmacists, manage a drug store just off North Sheridan road. "The trend in the past 20 years has been to discontinue the fountain and lunch counter in the neighborhood drug store," the older son said. "A fountain involves too much work, and hiring help is almost impossible.

"Instead of sipping sodas at the fountain, today's kids rearrange the packaged cones and ice cream in the drug store freezer, looking for a frozen chocolate sundae buried at the bottom.

"We installed an extensive photo department in the space where we used to have a fountain. Cameras are more profitable than banana splits anyway. A customer came in with 500 exposures he had taken on a European trip. He buys all his film, bulbs, and cameras here.

"Because we are near a college, we stock the magazines and paperbacks the students prefer. On Friday nights, the girls who don't have dates come in and study the cosmetics department, altho they are not heavy users.

"We had the public phone removed. The kids stayed in the booth too long, to the annoyance of customers with important business."

What was this? A quart of milk on the prescription counter in a drug store in Peterson avenue?

"I have learned more and more not to be surprised at unusual requests with the phone orders," the manager said. "A customer asked me to pick up a quart of milk at the delicatessen next door and deliver it with her prescription. She has a cold and can't get out.

"Later today, I am going to take this carton of cigarettes to the corner grocer, who doesn't carry another lady's brand. We collect from him and he delivers it with her groceries.

"Take a look at this order: two prescription numbers, hair spray, a pack of 3 by 5 envelopes, Vogue, six bars of soap, pink. The lady is under the dryer in the beauty parlor across the street and phoned us to have the order ready because she is in a hurry.

"It's all in a day's work."

Young Bob, a delivery boy in a Pulaski avenue store, thinks the neighborhood drug store is a great place because of the great guy at the head. "My first day here Max told me to drop the prescription in the mailbox if the lady wasn't home. Well, she wasn't.

"Two days later, she phoned Max to ask why he had mailed her prescription with 10 cents postage due when she lived half a block away. Instead of blowing his top, Max laughed so hard you could hear him all the way to the magazine rack when I told him that I thought he meant the United States postoffice box in front of the store.

"Max said that was one for the postmaster general because the prescription pills in a plastic bottle, was in a flimsy paper sack, stapled shut. Besides, the address was scribbled in pharmacy school method.

"When Max phoned the lady to explain, she asked him to send me over with a carton of cigarettes. No one could stay mad at Max."

LADY OF CHEER

Mr. WILLIAMS of New Jersey. Mr. President, Atlantic City is known around the world for its boardwalks, the Miss America Beauty Pageant, salt water taffy, and as a good convention city; but to wounded Vietnam veterans in nearby hospitals, Atlantic City means people who care and, most especially, it means Mrs. Lois Braymes.

Mrs. Braymes is carrying on the work of her husband, the late Col. Mark Braymes, who started the idea of a voluntary cheer program about 3 years ago. Under her direction it has expanded from caring for our wounded veterans in two hospitals to five, including Walter Reed Army Hospital, Washington, D.C., and the U.S. Naval Hospital, Bethesda, Md.

Through the generosity of the business, labor, and civic communities, 1,980 wounded veterans have been guests of the resort city. When veterans are unable to travel, residents visit them—taking gifts, friendly talk and a sincere personal interest.

I salute Mrs. Braymes and her fellow workers from Atlantic City. I ask unanimous consent that an article about this wonderful lady and her friends, published in the Atlantic City Press, be printed in the RECORD.

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

GIFT LOADS LEAVE RESORT TODAY FOR ARMY-NAVY HOSPITAL VETS

(By Bernard Izes)

Two station wagons loaded with gifts for wounded Vietnam veterans will leave the resort today for Walter Reed Army Hospital, Washington, D.C.

At the same time, a truckload of cakes will be traveling to the U.S. Naval Hospital at Bethesda, Md.

Both trips are part of a voluntary cheer program that has been going on almost three years in the resort, supported by the generosity of the city's business, labor and civic communities. To date it has brought 1,980 wounded vets on visits here.

The following examples of the warmhearted response Atlantic City is showing to the needs of our injured men:

Hotels and restaurants voluntarily give meals and lodging to groups of 36 servicemen who are ambulatory and who come to the resort for three-day trips during the winter months.

The George Hamids host groups of 36 at Steel Pier during one-day trips in summer.

Paul Steinberg, food concessionaire at Steel Pier, sets one stand aside for the servicemen and gives them a choice of anything on the menu for supper.

Two Atlantic City policemen volunteer their services without pay to stay with the wounded vets for the run of their three-day and one-day visits.

Major Martin Wolf of Longport greets the boys and remains with them for the entire visit.

Long distance operators of the local Bell Telephone exchange have made available a committee of women headed by Mrs. Connie Johnson to travel thousands of miles to servicemen's hospitals laden with truckloads of games, books and food donated by the people of Atlantic City.

Local 508, Hotel and Restaurant Employes Union, has also supplied a group to make delivery trips.

Irving Snyder Foundation 98, Knights of Pythias, has allocated $300 for picnic lunches for the wounded men.

"It is unbelievable how cooperative and generous the people of Atlantic City are," says Mrs. Lois Braymes, the motivating force behind the program.

Mrs. Braymes has expanded this work, which was started by her husband, the late Col. Mark Braymes. At the time of his death, Col. Braymes was bringing these services to two hospitals. Since then, Mrs. Braymes has extended the trips to five hospitals. They are: U.S. Naval Hospital in Philadelphia, Valley Forge Army Hospital in Phoenixville, Pa., U.S. Naval Hospital in St. Albans, N.Y., Walter Reed Army Hospital in Washington, D.C., and the U.S. Naval Hospital in Bethesda, Md.

"Our program takes care of both the men who travel and those who cannot leave their beds," says Mrs. Braymes. "The wounded men love to see our volunteers arrive and they hate to see them leave."

BAKE GOODS

The Tastykake Baking Co. has been sending truckloads of cakes to the veterans regu-

larly since Mrs. Braymes asked for its contributions.

According to Mrs. Braymes, her ultimate aim is to bring a veterans hospital and veterans counseling and information center to the resort area. She feels there are many benefits due to wounded and other veterans. She would like to see a place in the resort where a veteran can go to receive advice about problems of adjustment to civilian life.

Several organizations including Local 370 of the National Letter Carriers and the Atlantic City and Ventnor-Margate Lions Clubs have sent resolutions to Congressman Charles W. Sandman supporting Mrs. Braymes' drive for a veterans hospital.

"I may go into politics myself if it will mean more help for the wounded boys," says Mrs. Braymes. "Sometimes I get up against legalities and find I can't move. If getting into politics will make things happen a little faster, I will do it."

WILBUR J. COHEN ATTAINS HIGHEST OFFICE IN HIS DEPARTMENT

Mr. NELSON. Mr. President, President Johnson exercised splendid judgment in nominating Wilbur J. Cohen to be Secretary of Health, Education, and Welfare. Certainly the praise that has already emanated from this appointment attests to the fine qualities of the man chosen to head this important Department.

Wilbur J. Cohen, a native of Milwaukee, Wis., educated at the University of Wisconsin, has coupled his ability with an enthusiasm that resulted in remarkable strides toward social progress.

Early in his career, he served as an assistant to the Committee on Economic Security, contributing greatly to the Social Security Act of 1935. Thereafter, Mr. Cohen worked with and helped expand the Social Security Administration, distinguishing his governmental agency and in turn leaving his imprint on American life.

In 1961, in recognition of Wilbur Cohen's talents, President Kennedy induced him to leave the University of Michigan where he had been serving as a professor of public welfare administration for 5 years. Upon returning to Washington as Special Secretary for Legislation in Health, Education, and Welfare, he played a valuable role in major legislation involving child welfare, aid to education, consumer protection and an expansion of social security.

We all know about Secretary Cohen's contribution to medical care for the aged.

Wilbur Cohen will, I am sure, provide the aggressive leadership and imaginative guidance to his Department of Health, Education, and Welfare.

TRIBUTE TO JOSEPH MARTIN, JR.

Mr. TOWER. Mr. President, the death of Joseph Martin, Jr., ends the career of one of America's great political figures as well as one of our Nation's most devoted public servants and courageous Republicans. Though he was twice Speaker of the House of Representatives in the 80th and 83d Congresses, this grand old man of the Grand Old Party was always most devoted to the problems and people of his home constituency in southeastern Massachusetts. Though he rose to the ranks of next in line to the Presidency, Joseph Martin was a gentleman who never lost the common touch. No constituent problem was to be overlooked by the 21-term veteran Representative from Massachusetts' 14th Congressional District.

Joseph Martin rose to his position of leadership from extremely humble beginnings. The eldest son of a blacksmith, Joe Martin, Jr., as a small lad helped his family survive by holding a job as a newspaper carrier. Declining a scholarship to college in order to continue his early career as a journalist, young Martin worked and sent his two younger brothers to college instead. At the age of 24, he became perhaps the youngest publisher of a daily newspaper in the country when he and his fellow townsmen raised money to purchase the North Attleboro Chronicle.

Never one to rest on his laurels or shy away from greater service, Joseph Martin interrupted his journalism career with service in the Massachusetts House of Representatives and State senate. His brief retirement from politics in 1917 ended with his election to the U.S. House in 1925. From then on his ability as a party campaign chairman, which resulted in 80 new Republicans in 1938, won him a devotion from his colleagues that resulted in his selection as minority leader. From 1939 on, he was the Republican leader of the House for over two decades, permanent chairman of five GOP National Conventions, twice Speaker of the House, and in 1947 he was first in line of succession to President Harry Truman.

But, beyond all the heights he achieved as a politician and American statesman, I most admire Joseph Martin, Jr., for his simple faith in the people as the backbone of our democracy and democratic structures. When defeated for a 22d term in the House, Congressman Martin so nobly replied:

> I've always done the best I know how. If the people want me, fine. If they don't, I ain't going to get upset.

His own remarks in 1966 remain as a fitting tribute to a man whose era has passed but who will be remembered and admired for decades to come.

PUBLIC MOOD DEMANDS BETTER FIREARMS LAWS

Mr. DODD. Mr. President, in the Senate debate on the need for effective Federal firearms laws I have repeatedly heard comments from the opposition to strong laws that rifles and shotguns are not a necessary part of any law written by this Congress.

The argument goes, that the inclusion of rifles and shotguns in a strict Federal law to disarm criminals, juveniles, and the demented would be an "inconvenience" to legitimate hunters and sportsmen.

This, of course, is not true. It is the propaganda spread over the years by the firearms lobby. The reasoning is somehow expected to equate a minor inconvenience for a skeet shooter with public safety for thousands.

Mr. President, I say the public does not buy this argument.

The public will not be fooled by this self-interest argument of the gun lobby designed to confuse public demand for effective firearms laws.

Is there a need for a strong Federal firearms law?

Should that law include restrictions on the mail-order sale of rifles and shotguns?

Is it the mood of the public that it is the Federal Government's responsibility to control the interstate sale of all these deadly weapons so that State and local police will be better able to enforce local laws?

I think it is the public mood, and for good reason.

One of the best expressions of the mood of the public came in the May 9, 1968, edition of the Press-Scimitar of Memphis, Tenn.

The Press-Scimitar, in the town where Dr. Martin Luther King, Jr., was assassinated with a rifle in the hands of a man believed to be a criminal, had this to say about a Federal gun law that does not include long arms:

> Madmen of the kind who shot President Kennedy and Dr. King and sniped at police during urban riots would find in this bill no impediment to mail ordering rifles.
>
> Before passage the Senate could put more teeth in this provision and still leave legitimate sportsmen no room for complaint.

"Who Wants Gun Controls?" asks the May 2, 1968, editorial in the Lowell, Mass., Sun.

My answer is that most people do.

Through the CONGRESSIONAL RECORD I have made available to my colleagues the views of hundreds of newspapers, magazines, radio and television broadcasters, and one of the most impressive lists of endorsements of law enforcement agencies, church and labor groups, and individuals ever given a piece of legislation before the Senate.

Almost universally they endorse the adoption of title IV of the Safe Streets Act, S. 917. Most of them demand that long arms be included in the final bill.

Mr. President, I ask unanimous consent that the views of an additional group of newspapers be printed in the RECORD at this point.

They are from such distant points as Santa Barbara, Calif., and Union City, N.J.

They are from such places as Bloomington, Ill., North Adams, Mass., Ashland, Ky., and a host of other towns.

I believe they make it sufficiently clear that the mood of the public is for stronger firearms laws, workable firearms laws, and a Federal firearms law that controls the sale of rifles and shotguns as well as pistols and revolvers to criminals and others who should not have them.

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

[From the Lowell (Mass.) Sun, May 2, 1968]

WHO WANTS GUN CONTROLS?

In the four years and a half between the rifle shots that killed President Kennedy and the closely similar assassination of Martin Luther King, no federal legislation has

been enacted to control the sale or distribution of guns.

Meanwhile, Americans by the thousands have been murdered or have committed suicide or have been accidentally killed by bullets from pistols and rifles.

Now it appears that Congress is going to pass a watered-down gun control law—the first time in 30 years that gun-control legislation has cleared committee and reached the floor of the Senate.

A Senate Judiciary Committee's gun bill would provide limited controls on gun sales and in other ways strengthen the hand of law enforcement agencies in fighting crime. However, the measure is no guarantee against the kind of irresponsible gun peddling that enabled Lee Harvey Oswald to buy a mail-order rifle.

The committee's bill would prohibit interstate mail-order sales of handguns to individuals, but not of rifles and shotguns. It would also ban over-the-counter sales of handguns to nonresidents of a State and to those under 21. Additional curbs would be placed on imports and sale of surplus firearms, antitank guns, bazookas and similar weapons.

Here are some interesting editorial comments on the controversial gun legislation:

Inquirer, Philadelphia, Pa.—"Unrestricted distribution of lethal weapons to anyone with the money to pay goes far beyond the intention of the Nation's basic concepts of individual liberty. There are many persons who for one reason or another should not be permitted to possess handguns, rifles or more lethal firearms, if it can be prevented. Children, those with criminal records and the mentally ill are obvious examples."

Post, Washington, D.C.—"If Congress lets the National Rifle Association and its greedy collection of backers hoodwink it once more into thwarting effective firearms control, it ought to have its heads examined—by the electorate. The latest Harris poll on the subject shows that the American people favor the passage of Federal laws which would put tight controls over the sale of guns by a margin of 71 to 23 per cent. It's time to give that majority some attention."

Beacon Journal, Akron, O.—"A few hours before Dr. King's murder, a gun control amendment to the administration's anti-crime bill had failed in the Senate Judiciary Committee on a 6-6 tie. The next day the amendment was recommended for passage by a 9–7 vote.

"Whether or not the tragic event was responsible for mustering the additional three votes, it is a forward step that this legislation is at last going to be submitted to the full Senate. This is the first time since 1938 that firearms legislation has been approved by a congressional committee."

Journal, Atlanta, Ga.—"The two most luminous and symbolically important figures in American public life in the past five years—President Kennedy and Dr. Martin Luther King—have been killed by fools with rifles. Far too many people are arming themselves for this summer, and thereby increasing the chances that they will themselves be shot."

Daily News, Chicago—"For a lobby (the National Rifle Association) that represents at most the views of 23 per cent of the people, the gun clique wields a disproportionately big clout in Congress. We hope the Senate as a whole will have the courage to fulfill its responsibility to the overwhelming majority by restoring the deleted gun-control provisions to the anticrime bill. This would force a showdown with the House, and possibly clear the way for the effective gun-control measures."

[From the Ashland (Ky.) Independent, May 2, 1968]

THE PUBLIC WANTS IT

Gun sales are booming again. This reflects widespread personal anxiety, but it cannot be interpreted to mean that Americans in general oppose effective gun control laws. The polls consistently show quite the opposite—that a large majority of the people in this country, despite all the contrary efforts of the National Rifle Association, favor enactment of such law by Congress.

Congress has been far more responsive to NRA lobbying pressures, however, than to public sentiment. This was newly demonstrated when the Senate Judiciary Committee, on the very day after Dr. King's death, labored and brought forth a legislative mouse. The bill it approved would apply feeble restrictions to handguns only. Both Dr. King and President Kennedy, be it noted, fell to rifle bullets.

This is not a case of Congress being reluctant to act in the conscientious belief that public sentiment runs counter to wiser opinion. On the contrary, the widespread support of better gun control laws echoes the views of Attorney General Clark, FBI Director J. Edgar Hoover, many police chiefs and others well informed in law enforcement problems. The gun lobby thinks differently. Congress should start paying less attention to the lobby and more to a public and its leaders who want to make it harder for criminals to get their hands on murderous weapons.

[From the Lexington (Ky.) Leader, May 1, 1968]

TOWARD A SANE POLICY WITH FIREARMS

For the first time in 30 years, the United States Senate will discuss a significant gun control law. The debate, which is scheduled to start this week, will be over one of President Johnson's anticrime measures and specifically will include provisions to:

Prohibit the sale of interstate mail order handguns—revolvers and pistols—to individual citizens.

Halt the over-the-counter sale of handweapons to persons under 21 years of age and nonresidents of the state.

Ban the importation of surplus military weapons and ban the widespread sale of antitank guns, bazookas, mortars, grenades and other highly destructive weapons.

These provisions should be passed during this session of Congress, since to delay them would be to encourage even greater violence this summer and to allow many of the hoodlums to arm themselves without much trouble.

In fact, we are of the opinion that the gun control bill which cleared the Senate Judiciary Committee last week should be even broader and should ban the sale of rifles and shotguns from mail orders. Too many people who should not have the guns wind up with them.

Quite properly, the senators proposing this bill have correctly noted that it will in no way interfere with the rights of police departments, or organized and supervised gun clubs, or even responsible citizens from arming themselves.

However, it will make it far harder for juveniles, drug addicts, mental patients and convicted felons from getting guns. That is not saying that this law will prevent them from obtaining weapons, but only that such a law will make it harder for them and easier for the government workers to arrest and prosecute such dangerous characters.

Connecticut Sen. Thomas Dodd was absolutely correct when he stated the other day:

"People are buying guns like mad. We're really going to be in trouble if this doesn't stop. Here we pretend to be advanced and we're the most backward country in the world when it comes to guns. We're still living in the Wild Indian days."

Even before the death of Dr. Martin Luther King touched off a rash of gun sales, a Louis Harris survey showed more than 54 per cent of the homes in the U.S. have guns.

We hope Congress will pass these important measures. Maybe then, we can get back on the road toward a sane policy of firearms in the home.

[From the North Adams (Mass.) Transcript, May 2, 1968]

GUN LAW MORE IMPORTANT THAN EVER

The chances of a national gun law being enacted by this session of Congress are growing slimmer and slimmer—and for a not very pleasant reason.

The various bills, including the so-called Dodd bill, aimed at making it more difficult for unauthorized persons to obtain firearms, have been allowed to lie dormant in Congress, and the only action thus far has been a committee report favoring a watered-down measure so weak as to be useless.

And now with something uncomfortably like anarchy simmering in the land, more and more people are acquiring guns in the belief that they will be needed for the defense of their lives and property and for the safety on the streets.

Not a very pleasant condition in the United States of America, and one that is not necessary, because, in spite of the vigorous lobbying by the National Rifle Assn., the proposed gun laws would have been no hardship to sportsmen and would have placed no intolerable obstacles in the way of guns being obtained by law-abiding citizens.

A favorite argument of opponents has been that the law would not prevent criminal elements from obtaining guns, and that the assassins of John F. Kennedy and Dr. Martin Luther King would have been able to commit their crimes, regardless. According to that logic, there is no point in placing valuables in safes because determined safecrackers can get at them, anyway.

All that has been proposed in a uniformity of laws throughout the states, and measures to make it easy for the lawless to obtain lethal weapons. Surely a little inconvenience is a small price to pay for some measure of protection.

[From the Decatur (Ill.) Review, May 6, 1968]

GUNS NOT NECESSARY

News of the continuing controversy over gun control must bring puzzled smiles to many British faces.

For in Britain, guns are for war, not civilians. The police are issued firearms only for specific purposes, such as a manhunt of armed suspects.

Guards on armored trucks handle millions of dollars a day, armed only with long truncheons.

However, it is possible for the average British subject to obtain a license to own a firearm for an antique collection or hunting. But the sale of ammunition even to licensed persons is controlled.

There are not many antique gun collectors, and sport shooting is not widely available. The businessman or homeowner who is fearful of robbery cannot obtain licenses.

Thus, there are very few firearms in circulation, despite the influx of guns into Britain during World War II when there were fears the country would be invaded.

Of the 8 million residents of London, only 15,584—or two-tenths of one per cent—have licenses for lethal weapons.

Some of the few, unregistered guns collecting dust in attics or desk drawers have been brought to police stations in the past three months under an amnesty program. Police have accepted more than 2,000 weapons and 74,000 rounds of ammunition with no questions asked and no penalties.

Normally, the penalty for keeping an illegal weapon is a fine of $480 or six months in jail, or both.

The British do not seem to mind not having firearms, possibly because they do not miss what they have not had.

For recreation in the great outdoors they

picnic by the seashore or hike in the mountains of Wales. Golf and lawn bowling are popular male sports for those too old to play soccer or rugby.

Perhaps America is still too young and immature to give up the frontier notion that guns are necessary, or that the woods and fields would not be worth visiting without the thrill of ambushing an unwary deer with a high-powered rifle or shotgun.

Millions of hunters, bolstered by the powerful National Rifle Association and firearms manufacturers, put constant pressure on legislators to ignore the problems of widespread gun ownership.

But other groups have a legitimate interest in—or little objection to—regulating the sale and ownership of firearms.

These groups include law enforcement agencies, naturalists who would like to view wildlife which has not been frightened by hunters, bow and arrow enthusiasts who feel this method of hunting is more sporting than firearms, and even camera bugs who feel that hunting with a camera is slightly more civilized than blowing holes in animals with rifles.

Once the American "frontiersmen" acknowledge that the frontier is gone, perhaps restrictions will not prove unbearable.

[From the Haverhill (Mass.) Gazette, May 4, 1968]

GUN CONTROL

Passage of a sensible gun control law by Congress is long overdue. Even that most avid of freedom-for-guns organizations, the National Rifle Association, is willing to grant there is a need for reasonable laws in regard to gun traffic and sales.

Members of both Congress and the NRA have been guilty of obscuring the basic intent of the gun control law.

Some Congressmen have tried to tie the gun bill in with many other things, including anti-crime legislation in general and attacks on recent Supreme Court rulings.

Gun fanciers, on the other hand, have been invoking everything from interpretations of the Constitution to the possibility of Communist invasion or takeover of government, in an attempt to block any legislation whatsoever.

Meanwhile, nothing is being done to keep guns of all types out of the hands of children, insane persons and others who are incompetent to handle them.

Common sense demands that there be some safeguards in the law to protect the vast majority of citizens from those twisted minds in which guns become symbols of power and authority, giving them the mistaken idea they can control the destiny of the world with the weapon in their hands.

No one wants to ban the use of guns for hunting, target practice, self-defense and other legitimate purposes. What is sought is control over the indiscriminate distribution of guns to persons who are not qualified to use them.

Debate has started in Congress on the latest in a long line of gun control legislation. It is our hope, and the hope of many concerned Americans, that some effective laws will come out of the current discussions.

[From the San Jose (Calif.) News, May 1, 1968]

GUN BILL A SOP

The Senate is considering a gun control bill that in reality is only a sop, not a solution to one of America's most pressing problems. While it would cover pistols and revolvers, the bill would not regulate the mail-order sales of shotguns and rifles. The Senate should substitute a tougher bill that governs all firearms and helps insure that few or none can get into the hands of criminals or the mentally ill.—Newsday (New York)

[From the Bloomington (Ill.) Pantagraph, May 5, 1968]

GUN LOBBYISTS TWIST RIGHT TO BEAR ARMS

Far be it from us to shoot holes in the second amendment to the Constitution of the United States, but one thing is basic:

Opponents of federal-state gun legislation should at least recite the full amendment before waving the document under the noses of those who believe the purchase and possession of firearms require greater controls.

The amendment reads:

"A well-regulated milita being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

Those who have stalled sensible gun-control legislation often cite the second clause of the amendment, but rarely the first.

There is deliberate deception involved in such practices. When one reads beyond the level of The National Rifleman and Guns and Ammo magazines, the deception becomes clear.

Concern for a citizen-soldiery (the militia) was uppermost in the minds of those who drafted the Constitution. The fear of a large standing army, especially in peacetime, was present in most of them. Some feared that the Constitution (Art. 1, Section 8) gave Congress too free a hand in the organization, discipline and training of the militia.

The Second Amendment was the result.

Reference to the individual's right to bear arms was absent from almost all the debates at state ratifying conventions. And the final language of the amendment employs the phrase "the people" rather than "individual" or "every person" or "freeholder."

Those who have written extensively on the Second Amendment agree almost to a man that "the people" should be interpreted as a collective approach, not an individual approach.

In an article in the Northwestern University Law Review, "The Second Amendment, A Second Look," lawyers Peter B. Feller and Karl L. Gotting, write:

"There appears to have been no thought or mention of a personal right to carry firearms during that period (pre-Constitution)."

Both state and federal court decisions, the authors maintain, show beyond much question that the Second Amendment is aimed at militia rights and collective rights to bear arms, not individual rights.

After tracing in detail the commentary on the Second Amendment, the authors conclude:

". . . There should be no mistake as to what the Second Amendment does in fact embody. It guarantees that the Congress shall not infringe upon the right of a state to maintain its militia and should not so disarm a citizen as to prevent him from functioning as a militiaman in the organized state militia."

Even the right given to militiamen to bear arms is archaic, but, at the very least, the constitutional argument put forward by the gun lobbies misfires badly.

[From the Union City (N.J.) Hudson Dispatch, Apr. 29, 1968]

SENATE'S DUTY ON GUN CONTROLS

The U.S. Senate should have an accurate assessment of the tensions that exist in the country. And in addition, guided by the voluminous reports of apprehension over racial disturbances, it should have no doubts as to its duty and how to handle gun control legislation currently before the Congress.

The senate this week can, if it acts with wisdom and prudence, propose the proper controls in mail order arms sales. Any further dilution of an amendment to President Johnson's anticrime bill would be a disservice to the country and its people.

The judiciary committee of the upper house of the national legislature last week after much debate and by a bare majority approved a modest version of Mr. Johnson's gun control proposals. It might have been hailed as the most significant gun control legislation approved by a congressional committee in three decades, but it doesn't go far enough. The deficiency can be rectified by the senate this week or whenever it takes up the controversial measure again. The National Rifle Assn. lobby has been vigorously opposing it.

Last week the senate voted to prohibit the interstate mail order sales of hand guns, pistols and revolvers. But it failed to include a ban on rifles and shotguns. If it will sincerely reevaluate its action, the senators can only conclude that Mr. Johnson was acting judiciously in his recommendations and that the least they can do is lend their support to the betterment of the citizenry.

The senate must not lose sight of the fact that the sale of the long guns it would presently permit is the same sort of weapon that was used in the assassination of President John F. Kennedy in 1963 and in the cold-blooded murder of Dr. Martin Luther King Jr., three weeks ago.

It must also bear in mind that if guns are less accessible there is less of a chance of their use—especially in crimes of high emotions.

[From the Santa Barbara (Calif.) News-Press, Apr. 25, 1968]

GUN CONTROL LAW NEEDED NOW

Congress has a decision to make on effective gun control legislation. It must decide—and soon—whether the views of large majorities of Americans, as reflected in recurring polls, are to prevail over the lobbying of the National Rifle Assn. and related interests.

The latest Louis Harris Survey, for example, finds that Americans by 71 to 23 per cent, support the passage of federal laws which place tight controls over the sale of guns. This marks a five-point rise in favor of controls since last August.

Still nothing has been done effectively to curtail the deadly spread of weapons in a society which has proven vulnerable to the use of violence in the face of critical challenges. The gun lobby continues to be singularly successful in raising false fears about legislation denying hunters and law-abiding citizens the right to own guns. Such provisions are not at issue in bills under serious consideration.

On the day of the murder of Dr. Martin Luther King Jr., the Senate Judiciary Committee rejected a minimal piece of legislation prohibiting the mail-order sale of rifles, shotguns and handguns. The following day, pressed by tragedy, it voted to restrict interstate shipment of handguns or their direct sale to out-of-State purchases. Past experience would give even this measure little chance of ultimate enactment.

In the face of Congress' curious reluctance to act on this issue, some subsidiary findings in the latest Harris poll strike a disquieting note. The number of homes in which occupants say they have guns has now risen to a 51 per cent majority. The number of gun owners who say they would use their weapons to shoot other people in case of riots has risen from 29 to 51 per cent since last August. Some 48 per cent of all adult Americans were found to be personally more uneasy on the streets as a result of a fear of racial violence.

The message should be loud and clear to Congress. In the absence of proper gun control legislation, more people are leaning to weapons as a measure of self protection in one of the most serious periods of our history.

With the deaths of thousands of Americans annually attributable to firearm murders, suicides and accidental shootings, Congress has an obligation to legislate the rational controls the public wants.

[From the Asheville (N.C.) Citizen and Citizen-Times, Apr. 19, 1968]

DO PEOPLE REALLY WANT A GUN IN EVERY HAND?

Like religion and politics, the control of firearms is one of the controversial topics that has become a permanent issue in America.

By and large, people are either for it or against it, with no middle ground for compromise.

Yet the unrestricted sale of firearms, through the mail or across the counter, to irresponsible users, contributes to an annual death toll that is unnecessary and lamentable.

The Senate judiciary committee has come up with a half-a-loaf bill that would prohibit the mail-order sale of pistols (but not rifles and shotguns).

It isn't, in truth, much of a limitation. But we favor it as a beginning move toward regulation that has been delayed for many years, and we recently asked our readers to write their Senators and Representatives, urging their support of the bill.

Some of our readers did. But most of those we've heard from asked their Congressmen to kill the measure rather than endorse it.

The reaction is not surprising; it's that kind of issue. In today's Backtalk, Mr. Robert A. Harroc aptly summarizes the stand of the National Rifle Association against the proposed legislation. (Similar letters have been received from C. W. Rothrock of Asheville, James A. Rickert of Asheville, and Roland P. Chauffe of Brevard.)

We could drop the subject without further comment. But Mr. Harroc and the NRA contend that Americans are *constitutionally* entitled to own and use firearms. The belief is based on the Second Article of the Bill of Rights, which reads:

"A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

Clearly, that implies the constitutional right extends only to members of "a well-regulated militia." It was not intended to apply to criminals, mental incompetents, or racist agitators.

Mr. Harroff also writes: "In a lengthy document on the 1967 rioting, the President's National Advisory Committee on Civil Disorders barely mentioned firearms. Most reported sniping incidents were demonstrated to be gunfire either by police or National Guardsmen."

We have a copy of that "lengthy document." And, on Page 289, the Commission says in part:

"The fact that firearms can readily be acquired is an obviously dangerous factor in dealing with civil disorders. It makes it easier for a serious incident to spark a riot and may increase the level of violence during disorders.

"We recommended that all state and local governments should enact gun control legislation.

"We also believe that Federal legislation is essential in order to make state and local laws fully effective and to regulate areas beyond the reach of state government. We therefore support the President's call for gun-control legislation and urge its prompt enactment."

Despite our frequent appeals for stronger regulations, we are not fanatic on the subject. We own guns and have owned them since we were old enough to use them safely. Nothing now proposed or contemplated in Federal law will interfere with the ability of responsible citizens to acquire whatever weapons they wish and to use them for lawful purposes.

But, for lack of a law, mail-order firearms are flowing unrestricted to thugs, delinquents, hate-groups or anybody who has the price.

Again, we ask our readers to endorse the mild regulation now proposed by the Senate Committee and to let their Congressmen know they oppose this unregulated traffic in lethal weapons. As Mr. Harroff concludes: "Reason may yet prevail."

DO CHEMICALS SOW SEEDS OF GENETIC CHANGE?

Mr. NELSON. Mr. President, a potential threat to the health of future generations has been revealed by the noted medical scholar, Dr. James F. Crow, a University of Wisconsin product and chief of the National Institutes of Health, Genetics Study Section.

Dr. Crow and other leading geneticists believe that exposure of large numbers of people to chemicals which can change genes could cause a genetic disaster by permanently damaging the fiber of the human framework. In a study conducted at the Jackson Laboratory in Bar Harbor, Maine, under the supervision of Dr. Crow, a number of chemicals were found to induce genetic damage in various organisms. The chemicals that were of the greatest concern included such widely used products as chemosterilants and other pesticides, food additives, cosmetics, air pollutants, herbicides, industrial chemicals, vaccines, contraceptives, and drugs.

While the experts differ among themselves in assessing how much already has been proved and how much is yet to be established about chemical mutagenecity, there is agreement that work must begin to explore this problem further.

One drug company has initiated just this type of research. At Hoffman-La Roche, Dr. John J. Burns is deeply engrossed in mutagenesis research.

An FDA official says that, the "threat of genetic damage is our No. 1 health problem."

An article published in the Medical World News discusses this important problem. I recommend its reading; and to that end I ask unanimous consent that it be printed in the RECORD.

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

DO CHEMICALS SOW SEEDS OF GENETIC CHANGE?—MUTATION-INDUCING COMPOUNDS EXPERTS FEAR, MAY PARALLEL OR EXCEED X-RAY DANGER

Oak Ridge National Laboratory is world-famous for its studies on the genetic consequences of exposure to radiation. This week, Oak Ridge's biology division plays host to a quiet caucus of several of the nation's leading mutation researchers, who are gathering to decide what steps should be taken to explore what they believe may be an analogous, and perhaps more severe, threat to man's health.

What concerns these scientists is the possibility that future generations may suffer from genetic aberrations caused by mutation-producing substances that we innocently expose ourselves to today. There is no direct evidence, in man, that this damage will occur, but the available indirect evidence has led to strong scientific interest, and in some instances outright personal anguish, among geneticists familiar with the problem who have been interviewed by MWN.

Participating in the caucus are the two deans of population genetics in the U.S., Dr. James F. Crow of the University of Wisconsin, who is chief of the NIH genetics study section; and Dr. James V. Neel of the University of Michigan, who has been acclaimed for his genetic studies of the offspring of atom bomb survivors in Japan. Oak Ridge's biology chief, Dr. Richard A. Kimball, is host.

Dr. Kimball says: "This is a matter that could be a very serious problem for our country and the world in the future. We have not yet undertaken a study of the magnitude that would be necessary to estimate the seriousness of the problem."

Dr. Crow and other geneticists believe that exposure of large numbers of people to a chemical mutagen could cause a "genetic emergency"—or even a "genetic disaster"—manifest as widespread human suffering for many generations and irrevocable damage to the human race. Unlike teratogens, which damage an already-conceived infant and afflict only a single generation, mutations occur in the germ plasm before conception and might lie dormant for several generations, then damage many generations thereafter. The first warning of such an event might be an increase in the number, incidence, or severity of genetic illnesses; a marked change in the birth ratio of men to women; or an almost imperceptible loss of vigor and vitality, progressing from generation to generation.

Why are eminently sober scientists concerned about a threat to the future for which present-day evidence is so sparse? The reasons were set forth almost two years ago at a special closed session of the NIH genetics study section. This precursor of the Oak Ridge caucus was held at the Jackson Laboratory in Bar Harbor, Me. Dr. Crow was chairman.

His report of the group's deliberations asserts that potentially irrevocable damage might be done without immediate warning by some of the more than 10,000 natural and synthetic chemical agents now produced commercially or by the million or more additional agents that have been isolated or synthesized by man, most in recent decades. Fewer than 200 of these suspected mutagens have been systematically assayed. None has been definitively implicated—or cleared—as a direct threat to the future of man.

The unpublished Bar Harbor report, prepared at the request of NIH, makes these points:

"A number of chemicals—some with widespread use—are known to induce genetic damage" in various organisms.

"Identity of the genetic material in all organisms implies that a chemical that is mutagenic to one species is likely to be in others and must be viewed with suspicion."

Some compounds are "highly mutagenic in experimental organisms in concentrations that are not toxic and that have no direct effect on fertility," so that no natural barrier prevents mutations from being passed on to future generations.

"Perhaps most insidious are compounds that induce point mutations without chromosome breakage," and thus cannot be monitored microscopically.

Compared with radiation hazards, chemical mutagens "may be the submerged part of the iceberg."

The report has been circulated among genetic experts inside and outside government, but has been carefully guarded from the press and the public. Some participants in the meeting were told that it would be submitted for publication in *Science* last year. They subsequently learned that publication had been held up in the NIH, on grounds that the government wanted to prepare an action-oriented plan to accompany the document when it was made public. No such plan has yet been formulated, although

the National Institute of General Medical Sciences has been asked to develop some feasible courses of action based on the report.

Dr. Crow's report lists two ways a mutagenic chemical could affect exposed populations. The more likely is a mild increase in the mutation rate through exposure of a few individuals to a powerful agent, or of many to a weak one. Especially threatening in this type of slow contamination of the gene pool would be the introduction of a mildly mutagenic substance, such as an additive into a food or beverage that is mass-produced for wide consumption. Such a silent increase in man's quotient of bad seed could not be detected in any way.

More dramatic, and "unlikely but not impossible," these experts say, is a "genetic emergency" in which large numbers of persons might be exposed to a "presumably innocuous though in fact highly mutagenic substance." Even such a major catastrophe, however, might be detected and tracked to its source only if it produced a huge increase—say tenfold or greater—in the natural mutation rate.

The chemicals that most concern the Bar Harbor conferees as potential mutagens include chemosterilants and other pesticides, food additives, cosmetics, air pollutants, herbicides, known carcinogens, industrial chemicals, drugs, vaccines, and contraceptives. Their report recommends that "an up-to-date register of mutagenic chemicals be established and the information be made generally available," and that "tests for mutagenicity be made a routine part—as toxicity tests now are—of the testing of chemicals that are used for food or drugs or to which large numbers of people may be exposed for other reasons."

The report also emphasizes the need for "research to develop more-sensitive and cheaper tests of mutagenicity and chromosome breakage," including assays on organisms closely related to man. And it suggests that scientists "explore the feasibility of genetic monitoring of the human population for chromosome breakage and increased genetic damage."

These recommendations reflect the thinking of the 15 genetics experts who belong to the study section and of the half-dozen outside specialists in the field who came to Bar Harbor as invited guests. In attempting to obtain a broad evaluation of these recommendations, MWN has consulted two dozen other genetics experts. All shared the Bar Harbor group's concern about mutagenic chemicals as either a proved or at least a potential menace to human health.

These experts differ among themselves in assessing how much already has been proved and how much is yet to be established about chemical mutagenicity, and they differ on how much would—or should—have to be known about a chemical's ability to cause mutations before action to restrict its use might be taken. Most believe that direct evidence of a chemical's deleterious effect on man could be difficult or impossible to obtain—and incalculable damage could already have been done before it became apparent.

But they differ sharply on what kind of indirect evidence, and how much of it, should be required before modification, regulation, or restriction of a chemical agent would be appropriate. The one area in which there is unanimous agreement with the Bar Harbor recommendations among all scientists consulted by MWN is that there is pressing need to develop and use new mutagen detection methods.

"The mechanism of chromosome damage is unknown," asserts geneticist Kurt Hirschhorn of Mount Sinai School of Medicine in New York City, who last year participated in studies leading to the identification of LSD as a chromosome breaker and potential mutagen in man. "The most pressing problem," he adds, "is whether these changes are potentially dangerous to the individual taking the drug or his progeny. At this early stage of the investigation, there are no answers."

A basic researcher disagrees. Molecular biologist Ernst Freese, who is chief of the Laboratory of Molecular Biology at the National Institute of Neurological Diseases and Blindness, points out that DNA, the genetic stuff of which chromosomes are made, is structurally identical in man, mice, and microbes. Chemicals that damage or destroy DNA of one species invariably will act detrimentally to DNA of other species. Dr. Freese adds, unequivocally: "It is a general rule—which no geneticist doubts—that agents which definitely produce chromosome breaks in germ tissue will produce hereditary anomalies in the offspring."

The research chief of a major drug company, Dr. George H. Hitchings of Burroughs Wellcome, has begun to run chromosome studies of new drugs along with standard toxicity tests. But he disagrees strongly with Dr. Freese's estimate of what can be assumed from test findings in subhuman models. "The chief problem may arise from extrapolations by people who may overinterpret," Dr. Hitching says. "It's a big step from finding chromosome changes in animals to believing you've found something that will influence future generations of man."

Dr. John J. Burns, vice president for research at Hoffmann-La Roche, is probably the drug industry scientist most deeply engrossed in mutagenesis research. He agrees with Dr. Freese that in the test tube, microbial DNA is most likely the equivalent of mouse or human DNA, and a chemical that affects one probably will affect the others. But, he adds, the key question is as yet totally unanswered, because it is being asked only now for the first time: What happens to a chemical mutagen after it enters the body? Only if it gets into the gonads can it act on reproductive cell DNA, thereby influencing heredity. To answer the question, he says, genetics research must be supplemented by pharmacotoxicologic studies that assess an agent's metabolism in the body, its excretion rate, and concentration in the reproductive tissue.

Dr. Burns is trying to stimulate interest in development and use of pharmacologically sound protocols for mutagen testing. Roche has become the first pharmaceutical company to hire a full-time cytogeneticist and plans a major research program in mutagenic assay.

While scientists in mutagenesis research all concur with Dr. Burns in the need for better tests, some take sharp issue with him as to whether the existing assays are accurate enough to begin the task of testing suspect compounds. In one of the first warnings from the scientific community on the mutagenesis menace, Harvard biologist Matthew Meselson six years ago wrote to the President's special assistant for science and technology, Dr. Donald F. Hornig, to say that "our present understanding of chemical mutagenesis and of human genetics is adequate to set up some safety guidelines and monitoring procedures." Nobelist Hermann J. Muller had delivered a similar warning to the FDA.

At the FDA, the chief U.S. regulatory agency investigator working on mutagenesis is biochemical geneticist Marvin Legator. He says flatly: "The threat of genetic damage is our No. 1 health problem." Dr. Legator is also an associate professor of genetics at George Washington University. His colleague and co-investigator there, obstetrician-cytogeneticist Cecil B. Jacobson, adds: "Damage sown in the germ plasm is far more dangerous to the human race than immediate clinical complications like cancer or thalidomide, which cripple or kill a single person but are not reproduced."

URGE ACTION BY FOREIGN RELATIONS COMMITTEE

Mr. PROXMIRE. Mr. President, at the close of the drafting of the United Nations Charter in June 1945, President Truman looked to the future with these words:

> The Charter is dedicated to the achievement and observance of human rights and freedoms, and unless we can attain these objectives for all men and women everywhere—with regard to race, language, or religion—we cannot have permanent peace and security.

Three years later, the United Nations laid the foundations for "peace and security"—the Universal Declaration of Human Rights. His Holiness Pope John XXIII, in his famous encyclical, "Pacem in Terris," expressed his belief in the declaration:

> An act of the highest importance performed by the United Nations Organization was the Universal Declaration of Human Rights, approved in the General Assembly of December 10, 1948.

Today, 20 years later, those foundations established by the United Nations are deserted by the Senate. The human rights conventions, with which we can build on those foundations, are left idle. I urge the Foreign Relations Committee to report these conventions providing for the political rights of women and the abolition of forced labor. By ratification of these treaties, the Senate can begin the long-awaited construction of "peace and security"; can still attain those "objectives" of President Truman.

JUSTICE BLACK ON THE FIRST AMENDMENT

Mr. DODD. Mr. President, on March 20, 21, and 23, Hugo L. Black, Associate Justice of the Supreme Court of the United States, delivered a series of three lectures—the so-called Carpentier Lectures—at Columbia University Law School. The third of these lectures was devoted to the first amendment. I wish to call this lecture to my colleagues' attention because, whether one agrees with them or disagrees with them, the lecture contains some highly provocative thoughts.

Justice Black has for many years been considered one of the most liberal members of the Supreme Court. His liberalism, indeed, has on occasion made him highly controversial. I, myself, have never been able to go along with his argument that any law seeking to suppress obscene materials constitutes a system of censorship in violation of the first amendment. Nor, though he quotes Thomas Jefferson, can I accept his argument that the first amendment compels the striking down of all libel laws.

In the light of the exceedingly liberal interpretations he has in past placed on the first amendment, it is therefore all the more noteworthy when Justice Black now argues that the freedoms conferred by the first amendment are sometimes too broadly construed.

Some of the points which Justice Black made in his lecture, I am disposed to agree with; others I have serious doubts about. But the lecture is so thought pro-

voking and the subject matter of such immediate interest that I would urge all of my colleagues to read it.

After making it clear that he considers the freedoms guaranteed by the first amendment "indispensable safeguards to our country's freedom and prosperity," Justice Black goes on to say:

I am vigorously opposed to efforts to extend the First Amendment's freedom of speech beyond speech, freedom of press beyond press, and freedom of religion beyond religious beliefs. Thus the provisions of the Amendment that make speech, press and religion free from governmental interference do not immunize other conduct in addition to these three particularized freedoms. Likewise the provision granting the right of "peaceable assembly" should not be extended to a guarantee that people will be supplied by government or by private parties with a place to assemble even though their assembly is peaceful.

Justice Black went on to say that he has "always been careful to draw a line between speech and conduct." He quoted approvingly from the dissenting opinion handed down by Justice Douglas in Roth against the United States:

Freedom of expression can be suppressed if and to the extent it is so closely brigaded with illegal action as to be an inseparable part of it.

Justice Black expresses what many of his liberal followers would consider an extremely conservative view when he says:

I do not believe that the First Amendment grants a constitutional right to engage in the conduct of picketing or demonstrating, whether on publicly-owned streets or on privately-owned property.

He goes on to say that—

No matter how urgently a person may wish to exercise his First Amendment guarantees to speak freely, he has no constitutional right to appropriate someone else's property to do so.

He quotes from Mr. Justice Goldberg's opinion in Cox against Louisiana:

Nothing we have said here . . . is to be interpreted as sanctioning riotous conduct in any form or demonstrations, however peaceful their conduct or commendable their motives, which conflict with properly drawn statutes and ordinances designed to promote law and order, protect the community against disorder, regulate traffic, safeguard legitimate interests in private and public property, or protect the administration of justice and other essential governmental functions.

Justice Black also offers the observation that—

Use of the streets for propaganda purposes can at certain times and places not only discommode travelers, but actually paralyze all use of the streets for their primary purpose, which is traveling. In these situations government must be able to regulate the offensive conduct, and I see no constitutional barrier to its doing so.

Most of us will find things to agree with and things to disagree with in Justice Black's remarks. But all of us will find food for thought in them.

I ask unanimous consent to have the full text of Justice Black's lectures printed in the RECORD.

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

CARPENTIER LECTURES—THIRD LECTURE: THE FIRST AMENDMENT

(Delivered by Hugo L. Black, Associate Justice, Supreme Court of the United States at Columbia University Law School, New York City, on March 20, 21, and 23, 1968)

The right to think, speak and write freely without governmental censorship or interference is the most precious privilege of citizens vested with power to select public policies and public officials. To secure this privilege for the people of the United States, the First Amendment to our Federal Constitution forbids Congress (and the States through the Fourteenth Amendment) to make any law respecting or concerning the establishment of religion, prohibiting the free exercise of religion, abridging freedom of speech or of the press, or of the right of the people peaceably to assemble and petition the government for a redress of grievances. It is because I so strongly believe that the First Amendment freedoms are indispensable safeguards to our country's safety and prosperity that I yielded to an irresistible urge to make that amendment the third and last subject of my three Carpentier Lectures. The First Amendment covers too big a field for me to discuss it exhaustively in one lecture. Thus I will devote this lecture principally to my belief in freedom of speech and press. But let me make it completely clear here that I stand squarely on the following statement I made, speaking for the Court, in *Everson* v. *Board of Education*, 330 U.S. 1, concerning the First Amendment's guarantee of religious freedom:

"Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force or influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organization or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect 'a wall of separation between church and State'." 330 U.S. at 15–16.

Since the basic theme of this whole series of lectures has been my constitutional faith, I want to explain to you my belief that the First Amendment's guarantees of freedom of speech, press and religion are the paramount protections against despotic government afforded Americans by their Bill of Rights and that courts must never allow this protection to be diluted or weakened in any way. On the other hand, I want to emphasize in this lecture that in harmony with my general views of faithful interpretation of the Constitution as written, which views I hope I have made clear in the preceding two lectures, I am vigorously opposed to efforts to extend the First Amendment's freedom of speech beyond speech, freedom of press beyond press and freedom of religion beyond religious beliefs. Thus the provisions of the Amendment that make speech, press and religion free from governmental interference do not immunize other conduct in addition to these three particularized freedoms. Likewise the provisions granting the right of "peaceable assembly" should not be extended to a guarantee that people will be supplied by government or by private parties with a place to assemble even though their assembly is peaceful. With these very significant distinctions clearly in mind, I want to begin this lecture by telling you what the First Amendment's guarantee of free speech means to me.

My view is, without deviation, without exception, without any ifs, buts, or whereases, that freedom of speech means that government shall not do anything to people, or, in the words of Magna Carta, move against people, either for the views they have or the views they express or the words they speak or write. Some people would have you believe that this is a very radical position, and maybe it is. But all I am doing is following what to me is the clear wording of the First Amendment that "Congress shall make no law . . . abridging the freedom of speech or of the press." These words follow Madison's admonition that there are some powers the people did not mean the Federal Government to have at all. As I have said innumerable times before I simply believe that "Congress shall make no law" means Congress shall make no law. Obviously the way to communicate ideas is through words, and I believe that when our Founding Fathers, with their wisdom and patriotism, wrote this Amendment, they knew what they were talking about. They knew what history was behind them; they were familiar with the sad and useless tragedies of countless people who had had their tongues plucked out, their ears cut off or their hands chopped off, or even worse things done to them, because they dared to speak or write their opinions. They wanted to ordain in this country that the new central government should not tell the people what they should believe or say or publish. James Madison, in explaining the sweep of the First Amendment's limitation on the Federal Government when he offered the Bill of Rights to Congress in 1789, is reported as having said: "The right of freedom of speech is secured; the liberty of the press is expressly declared to be *beyond the reach of this government* . . ." (Emphasis added.) 1 Annals of Congress 738. Thus we have the absolute command of the First Amendment that no law shall be passed by Congress abridging freedom of speech or the press. And with the passage of the Fourteenth Amendment the Supreme Court has properly recognized that this command is now as applicable against the States as it is against the Federal Government.

There is nothing in the language of the First Amendment to indicate that it protects only *political* speech, although to provide such protection was no doubt a strong reason for the Amendment's passage. Since the language of the Amendment contains no exceptions, I have continuously voted to strike down all laws dealing with so-called obscene materials since I believe such laws act to establish a system of censorship in violation of the First Amendment. See *Roth* v. *United States*, 354 U.S. 476, 508 (1957); *Kingsley Pictures Corp.* v. *Regents*, 360 U.S. 684, 690 (1959); *Smith* v. *California*, 361 U.S. 147, 155 (1959); *Ginzburg* v. *United States*, 383 U.S. 463, 476 (1966). It is not difficult for ingenious minds to think up and contrive ways to escape even the plain prohibitions of the First Amendment. This same kind of ingenuity existed in the days of Rome. For example, it is said that Augustus punished people for criticizing the Emperor by the simple device of calling such criticism obscene. See Tacitus, The Annals, Book I, p. 72. So far as I am concerned, I do not believe there is any halfway ground for protecting freedom of speech and press. If you say it is half free, you can rest assured that it will not remain as much as half free.

Censorship, even under the guise of protecting people from books or plays or motion pictures that other people think are obscene, shows a fear that people cannot judge for themselves. As Justice Douglas said in a dissenting opinion which I joined in *Roth* v. *United States*, 354 U.S. 476, "I have the same confidence in the ability of our

people to reject noxious literature as I have in their capacity to sort out the true from the false in theology, economics, politics, or any other field." 354 U.S., at 514. And I cannot help pointing out here, in light of what seems to be happening today, that I think the Supreme Court is about the most inappropriate Supreme Board of Censors that could be found (see my dissenting opinion in *Kingsley Pictures Corp.* v. *Regents*, 360 U.S. 684, 690). And we should never forget that the plain language of the Constitution recognizes that censorship is the deadly enemy of freedom and progress and forbids it.

Just as with obscenity laws, I believe the First Amendment compels the striking down of all libel laws. Thomas Jefferson indicated as much when in 1798 he made the following statement:

"[The First Amendment] thereby guard[s] in the same sentence, and under the same words, the freedom of religion, of speech, and of the press: insomuch, that whatever violates either, throws down the sanctuary which covers the others, and that libels, falsehood, and defamation, equally with heresy and false religion, are withheld from the cognizance of federal tribunals." 8 Jefferson, Writings (Ford ed. 1904), 464–465.

Since the First Amendment has been made applicable to the States by the Fourteenth, I do not hesitate to expound the constitutional doctrine that just as it was not intended to authorize damage suits for mere words as distinguished from conduct as far as the federal government is concerned, the same rule should apply to the States. I believe with Jefferson that it is time enough for government to step in to regulate people when they *do* something, not when they *say* something. I had occasion to enunciate this view in my concurring opinion in *New York Times Co.* v. *Sullivan*, 376 U.S. 254, 293, where I voted to reverse the libel judgment "exclusively on the ground that the *Times* and individual defendants had an absolute, unconditional constitutional right to publish in the *Times*' advertisement their criticisms of the Montgomery (Ala.) agencies and officials." 376 U.S., at 293. It seems to me that under the First and Fourteenth Amendments a State has no power to use a civil libel law or any other law to impose damages for merely discussing public affairs and criticizing public officials. As I said in the *Times* case, "We would, I think, more faithfully interpret the First Amendment by holding that at the very least it leaves the people and the press free to criticize officials and discuss public affairs with impunity." 376 U.S., at 296. I am aware, of course, that some writers and commentators have challenged the historical accuracy of my reading of the broad sweep of the First Amendment. But a careful review of all the evidence convinces me that my interpretation of the Amendment is accurate.

Free speech plays its most important role in the political discussions and arguments which are the life-blood of any representative democracy. The lesson of history is crystal clear that the decline of really free political debate is one of the first signs of deterioration in an otherwise free state. Our Founding Fathers recognized this and established a system of government with its written Constitution and Bill of Rights which they believed insured absolute freedom to any citizen to say anything and believe anything, even if that belief was contrary to our most sacred principles of government and society. Jefferson expressed it this way on the occasion of his first inauguration as President of the United States:

"If there be any among us who would wish to dissolve this Union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it." Thomas Jefferson, First Inaugural Address, March 4, 1801 (this address is reprinted in Jones, Primer of Intellectual Freedom 142, 143 (Harvard University Press, 1949)).

Unfortunately, however, the Supreme Court has refused to grant absolute protection to speech under the First Amendment, as he advocated, and instead has adopted various judicial tests which are applied on a case-by-case basis to determine if the speech in question is entitled to protection. Of these the most dangerous I believe is the so-called balancing test. The Court's balancing test in effect says that the First Amendment should be read to say "Congress shall pass no law abridging freedom of speech, press, assembly and petition, unless Congress and the Supreme Court reach the joint conclusion that on balance the interest of the government in stifling these freedoms is greater than the interest of the people in having them exercised." This is closely akin to the notion that neither the First Amendment nor any other provision of the Bill of Rights should be enforced unless the Court believes it is *reasonable* to do so. This balancing test has been used to justify, among other things, the requirement that a college teacher answer questions to the House Un-American Activities Committee about alleged past Communist affiliation, *Barenblatt* v. *United States*, 360 U.S. 109; the refusal to certify an attorney for admission to a state bar when he would not answer questions about his suspected association with Communists 20 years before, *Konigsberg* v. *State Bar*, 366 U.S. 36; and the conviction for a crime of a defendant charged with mere membership in the Communist Party. *Scales* v. *United States*, 367 U.S. 203.

Because of a fear of Communists these people, and others, were allowed to be punished for their political beliefs and peaceable associations. Punishment for an overt, illegal act is one thing, but punishment of a person because he says something, believes something or associates with others who believe the same thing is forbidden by the express language of the First Amendment. Yet in these cases, and too many others, people's rights are balanced away with the excuse that this country must be able to protect and preserve itself. I believe that the best way to protect and preserve the country is to keep speech and press free. No one owes his country and its form of government more than I do, and I want to see both preserved. But I believe they can be preserved only by leaving people with the utmost freedom to think and to hope and to talk and to dream if they want to dream. I do not think this Government must look to force, stifling the minds and aspirations of the people. For as I said in *Barenblatt*, "no number of laws against communism can have as much effect as the personal conviction which comes from having heard its arguments and rejected them, or from having once accepted its tenets and later recognized their worthlessness." 360 U.S., at 144. Even if I did not think this, however, I could not uphold laws punishing belief in communism or in anything else because as I read the First Amendment it absolutely forbids government from outlawing membership in a political party or similar association merely because one of the philosophical tenets of that group is that the existing government should be overthrown by force at some time in the future when circumstances permit.

Not only, it seems to me, does the balancing test ignore the language of the First Amendment, but as usually applied it has an unlimited breadth which is highly dangerous. For under the balancing test the question in every case where a First Amendment right is asserted is not whether there has been an abridgment of that right, not whether the abridgment of that right was intentional on the part of the government, and not whether there was any other way in which the government could have accomplished its aim without an abridgment. Rather the question simply is whether the government has an interest in abridging the right involved and, if so, whether that interest is of sufficient importance, *in the opinion of a majority of the Supreme Court*, to justify the government's action in doing so. Such a doctrine can be used to justify almost any government suppression of First Amendment freedoms. As I have said many times before I cannot subscribe to this doctrine because I believe that the First Amendment's unequivocal command that there shall be no abridgment of the rights of free speech shows that the men who drafted our Bill of Rights did all the "balancing" that was to be done in this field.

In addition to balancing, the other major judicial test that has been used in the First Amendment field is that of clear and present danger. The problem with this test is that it can be used to justify the punishment of advocacy. Thus in *Yates* v. *United States*, 354 U.S. 298, a majority of the Supreme Court said that persons could be punished for advocating action to overthrow the government by force and violence where those to whom the advocacy was addressed were urged to *do* something rather than merely *believe* in something. My objection to this approach is that under it people can still be convicted just for talking as distinguished from acting. As I said in *Yates*, "I believe that the First Amendment forbids Congress to punish people for talking about public affairs, whether or not such discussion incites to action, legal or illegal." 354 U.S., at 340. I agree wholeheartedly with the "Statute for Religious Liberty" written by Thomas Jefferson and passed by the Virginia Assembly in 1785 wherein it is stated that "it is time enough for the rightful purposes of civil government, for its officers to interfere when principles break out into overt acts against peace and good order . . ." 12 Hening's Stat. (Virginia 1823), c. 34, p. 85.

I think I have made clear my belief that the Constitution guarantees absolute freedom of speech, and I have not flinched in applying the First Amendment to protect ideas I abhor. I have also continuously voted within the Court to strike down all obscenity and libel laws as unconstitutional. In giving absolute protection to free speech, however, I have always been careful to draw a line between speech and conduct. Thus at the very beginning of my dissent in *Beauharnais* v. *Illinois*, 343 U.S. 250, decided in 1952, I pointed out that "The conviction rests on the leaflet's contents, not on the time, manner or place of distribution." 343 U.S., at 267. This distinction, to which I want to devote the rest of this lecture, has been described very well by Justice Douglas in his dissenting opinion in *Roth* v. *United States*, 354 U.S. 476, where he stated: "Freedom of expression can be suppressed if, and to the extent that, it is so closely brigaded with illegal action as to be an inseparable part of it." 354 U.S., at 514.

The First and Fourteenth Amendments take away from government, state and federal, all power to restrict freedom of speech, press and peaceful assembly where people have a right to be for such purposes. That much is clear and to me indisputable. But recently many loose words have been spoken and written about an alleged First Amendment right to picket, demonstrate, or march, usually accompanied by singing, shouting or loud praying, along the public streets, in or around government-owned buildings, or in and around other people's property, even including their homes, without their owner's consent. I say these have been loose words because I do not believe that the First Amendment grants a constitutional right to engage in the conduct of picketing or demonstrating, whether on publicly-owned streets or on privately-owned property. The Constitution certainly does not require people on the streets, in their homes or anywhere else to listen against their will to speakers

they do not want to hear. Marching back and forth, though utilized to communicate ideas, is not speech and therefore is not protected by the First Amendment.

In order that I make myself perfectly clear on this issue, let me go into a little more detail. Picketing, demonstrating and similar activity usually consists in walking or marching around a building or place carrying signs or placards protesting against something that has been or is being done by the person picketed. Thus a person engaged in such activities is not only communicating ideas—that is exercising freedom of speech or press—but is pursuing a course of conduct in addition to constitutionally protected speech and press. Picketing then, as Justice Douglas pointed out in a concurring opinion which I joined in *Bakery Drivers Local* v. *Wohl*, 315 U.S. 769, 775, decided in 1942, "is more than free speech, since it involves patrol of a particular locality and since the very presence of a picket line may induce action of one kind or another, quite irrespective of the nature of the ideas which are being disseminated." 315 U.S., at 776. This is not a new idea either with me or the Supreme Court since it has long been accepted constitutional doctrine that the First Amendment presents no bar to the passage of laws regulating, controlling or entirely suppressing such a course of marching conduct even though speaking and writing accompany it. See *Giboney* v. *Empire Storage & Ice Co.*, 336 U.S. 490. As picketing is made up of speech and press plus other conduct, so are what are popularly called demonstrations and street marches. And the conduct of demonstrators and street marchers, like that of pickets, can be regulated by government without violating the First Amendment.

It is not difficult to understand why the Founders believed that the peace and tranquility of society absolutely compel the foregoing distinction between constitutionally protected freedom of religion, speech and press, and non-constitutionally protected conduct like picketing and street marching. It marks the difference between arguing for changes in the governing rules of society and in engaging in conduct designed to break and defy valid regulatory laws. The cases coming before the Supreme Court involving the Mormons graphically illustrate these differences. See, *e.g.*, *Reynolds* v. *United States*, 98 U.S. 145. An important tenet of the Mormon faith is a belief in plural marriages for men. Our society, however, and most religions treat polygamy as a sinful and evil practice, one that is by common consent made a crime perhaps in every State of the Union. Congress made polygamy a crime in the Territory of Utah before it became a State. When prosecuted under that law the Mormons defended on the ground that since their religious faith approved the practice, the territorial law making it a crime violated the First Amendment. The Supreme Court rejected this contention, pointing out that the First Amendment only protects the right to be a Mormon, to believe in and advocate its faith, but that a church cannot by giving conduct a religious approval bar government from making such conduct a crime. Thus the line was clearly drawn between freedom to believe in and advocate a doctrine and freedom to engage in conduct violative of law.

I had occasion to draw this same line between the constitutional right to speak and write and the nonconstitutional right to engage in the conduct of picketing in my opinion for the Court in *Giboney* v. *Empire Storage & Ice Co.*, 336 U.S. 490, decided in 1949. In that case Missouri had an anti-trust, anti-boycott law against combinations in restraint of trade. A union composed of milk wagon drivers who delivered milk to homes was violently opposed to a competitive group of drivers who delivered milk to retail stores for subsequent sale to their customers. The home milk deliverers unsuccessfully tried to persuade dairies to refuse to sell milk to wagon drivers who sold to stores. The dairies could not enter into agreement to boycott the drivers who supplied the stores without violating the State's anti-trust law. The home milk drivers set up pickets to march back and forth on streets adjacent to the dairies. The pickets carried placards and signs advertising the facts of their dispute with the dairies. These placards and signs were the kind of speech and press we held in *Thornhill* v. *Alabama*, 310 U.S. 88, were protected by the First Amendment. The action of the pickets in walking back and forth, however, was neither speech nor press, but conduct carried on to accomplish a boycott squarely in violation of the Missouri state law. Under these circumstances, we held that the protected speech and press did not immunize the workers' conduct in marching back and forth as pickets. In my opinion for the Court I made the following declaration: "It rarely has been suggested that the constitutional freedom of speech and press extends its immunity to speech or writing used as an integral part of conduct in violation of a valid criminal statute. We reject the contention now." 336 U.S., at 498. The opinion went on to explain that *Thornhill* v. *Alabama*, 310 U.S. 88, held the Alabama law against picketing unconstitutional not as a violation of the First Amendment, but denied enforcement because of its over-broadness and vagueness. And since *Thornhill* the Supreme Court has not even indicated that the marching element of picketing may be constitutionally protected from regulation as is speech and press.

The regulation of picketing and marching is essential since this conduct by its very nature tends to infringe the rights of others. For example, no matter how urgently a person may wish to exercise his First Amendment guarantees to speak freely, he has no constitutional right to appropriate someone else's property to do so. Our Constitution recognizes and supports the concept of private ownership of property and in the Fifth Amendment provides that "no person shall . . . be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation." The long and short of this problem is that while the First Amendment does guarantee freedom to speak and write, it does not at the same time provide for a speaker or writer to use other people's private property to do so. This means that there is no First Amendment right for people to picket on the private premises of another to try to convert the owner or others to the views of the pickets.

The next question is whether the First Amendment, or any other constitutional provision, compels government, either federal or state, to provide a place for people to speak, write or assemble on government-owned streets, highways, buildings and other publicly-owned places. Certainly the language of the First Amendment provides no support for this contention. That language deals, not with supplying people a place to speak, write or assemble, but only with the right to speak, write and assemble. It is true that the Amendment does provide that there should be no abridgement of the right to petition the government for redress of grievances. This language would unquestionably appear to require the *government* to have a place to receive petitions about grievances, but it should be noted that the petition is to be made to "government" not to the public in general. Propagandizing on the streets can hardly be the same as presenting a petition to "government" to redress grievances. Nor does a grant to the people of the right to assemble, to speak or to write carry any inference that the government must provide streets, buildings or places to do the speaking, writing or assembling.

This view that I am now expressing is not a new one with me, but one I have held for a long time. I have never doubted the power of government over its streets and public places. For example, in 1941, after I had been on the Supreme Court only a few years, I wrote a dissent in the case of *Milk Wagon Drivers Union* v. *Meadowmoor Dairies*, 312 U.S. 287, where, although I thought the injunction against picketing was invalid because it was too broad, I nevertheless pointed out that States certainly had the power to regulate such picketing: "Furthermore," I said, "this is true because a state has the power to adopt laws of general application to provide that the streets shall be used for the purpose for which they primarily exist [travel], and because the preservation of peace and order is one of the first duties of government." 312 U.S. at 317. It is absolutely critical, however, that state regulatory laws in this area be applied to all groups alike, and these laws must never be used as a guise to suppress particular views which the government dislikes. A good example of what I mean here is the following excerpt from my concurring opinion in *Cox* v. *Louisiana*, 379 U.S. 559, 575:

"In the case before us Louisiana has by a broad, vague statute given policemen an unlimited power to order people off the streets, not to enforce a specific, nondiscriminatory state statute forbidding patrolling and picketing, but rather whenever a policeman makes a decision on his own personal judgment that views being expressed on the streets are provoking or might provoke a breach of the peace. Such a statute does not provide for government by clearly defined laws, but rather for government by the moment-to-moment opinions of a policeman on his beat . . . . This kind of a statute provides a perfect device to arrest people whose views do not suit the policeman or his superiors, while leaving free to talk anyone with whose views the police agree." 379 U.S., at 579.

I think there can be no doubt that the First Amendment forbids laws that open up streets, highways and buildings for some groups with some views, while denying their use for other groups to advocate different views. This was an additional consideration which I pointed out in the *Cox* case where Louisiana allowed labor union assembly, picketing and public advocacy, while denying that opportunity to groups protesting against racial discrimination. Obviously Louisana could not be allowed "to pick and choose among the views it is willing to have discussed on its streets." 379 U.S., at 581. This, however, is not to take away from government its necessary power to control its property, but only forbids it to do so in a way that amounts to aiding some views, beliefs and causes over others, which amounts to precisely the kind of governmental censorship the First Amendment was written to proscribe.

In addition to protecting against discriminatory regulatory laws, the First Amendment prohibits a State or municipality from regulating conduct in such a way as to affect speech indirectly where other means are available to accomplish the desired result without burdening speech or where the need to control the conduct in question is insufficient even to justify an indirect effect on speech. Thus, as I said in *Barenblatt* v. *United States*, 360 U.S. 109, "even . . . laws governing conduct . . . must be tested, though only by a balancing process, if they indirectly affect ideas." 360 U.S., at 142. A good example of what I am talking about here is the case of *Schneider* v. *Irvington*, 308 U.S. 147, which involved ordinances prohibiting the distribution of handbills in order to prevent littering. The Supreme Court forbade application of such ordinances when they affected the distribution of literature designed to spread ideas. There were other

ways, we said, to protect the city from littering which would not sacrifice the right of the people to be informed. But let me make absolutely clear that this kind of balancing should be used only where a law is aimed at conduct and indirectly affects speech; a law directly aimed at curtailing speech and political persuasion can, in my opinion, never be saved through a balancing process. I should also add here that the Constitution does not require a government, either federal or state, to devote its streets, buildings and other public places to the advocacy of causes through proscribed conduct where that government desires such facilities *uniformly* to be used only for their dedicated purposes. Of course, if a person is lawfully on the street, he carries with him his constitutional right to talk and under these circumstances his advocacy of causes may not be abridged.

From what I have said I hope it is clear to you that my belief is while the First Amendment guarantees freedom to write and speak, it does not guarantee that people can, wholly regardless of the rights of others, go where they please and when they please to argue for their views. Such conduct can be regulated. The streets and highways, for example, are basically dedicated to the use of travelers who wish to go from one place to another. Anything that interferes with this basic purpose interferes to a greater or lesser extent with the basic purpose of highways. Most States and municipalities, however, out of their own experience and for their own purposes, adopt on their own initiative policies that permit streets to be used on occasions for parades and marches by various groups frequently to advocate different causes. So long as this is done without discrimination against particular views such permits usually are regarded everywhere as wise procedure and as clearly within the power of a State or municipality. Mr. Justice Goldberg said as much when, in his opinion for the Court in *Cox* v. *Louisiana*, he stated:

"Nothing we have said here . . . is to be interpreted as sanctioning riotous conduct in any form or demonstrations, however peaceful their conduct or commendable their motives, which conflict with properly drawn statutes and ordinances designed to promote law and order, protect the community against disorder, regulate traffic, safeguard legitimate interests in private and public property, or protect the administration of justice and other essential governmental function." 379 U.S., at 574.

Plainly, use of the streets for propaganda purposes can at certain times and places not only discommode travelers, but actually paralyze all use of the streets for their primary purpose, which is traveling. In these situations government must be able to regulate the offensive conduct, and I see no constitutional barrier to its doing so.

Our government envisions a system under which its policies are the result of reasoned decisions made by public officials chosen in the way the laws provide. Those laws do not provide that elected officials, counselmen, mayors, judges, governors, sheriffs or legislators, will act in response to preemptory demands of the leaders of tramping, singing, shouting, angry groups controlled by men who, among their virtues, have the ordinary amount of competing ambitions common to mankind. A control of this kind by such particularized groups is directly antagonistic to a control by the people's representatives chosen by them to manage public affairs. In other words, government by clamorous and demanding groups is very far removed from government by the people's choice at the ballot box. What we have in this country is a government of laws, designed to achieve justice to all, in the most orderly fashion possible, and without leaving behind a deluge of hate-breeding divisions and dangerous riots.

The First Amendment, as I have frequently said, is the heart of our Bill of Rights, our Constitution and our Nation. Where rights of communication, assembly and protest are made secure, which is what our First Amendment is intended to do, people develop a sturdy and self-reliant character which is best for them and best for their government. This Amendment was designed and planned to give the people so great an influence over the government's affairs that our society could abandon the age-old device of settling controversies through strife which leads inevitably to hatreds and bloodshed, and substitute for strife settlements by and through the peaceful agencies of government and law. Only in this way will we as a country fulfill the promise of our Constitution to "establish Justice, insure domestic Tranquility, provide for the Common Defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our posterity . . ."

What I have just said completes my third and last Carpentier Lecture delivered upon invitation of Dean William Warren, of the Columbia University Law School whose unfailing courtesy and cooperation I greatly appreciate. Although the lectures have touched only the high spots of my legal and constitutional views, I have rather loosely referred to them as a confession of my articles of constitutional faith. And perhaps they are, since I have talked about some of the legal and constitutional problems around which have revolved many of the most controversial, and, too frequently, acrimonious discussions of the past few years. I have tried to find and read these discussions, particularly those challenging my own positions. Some who oppose my view have been satisfied with efforts to destroy them by pure logic and reason; others have added rhetoric and emotion; still others have expressed a sort of sympathy and sorrow because of the naivety or ignorance which alone in their judgment could account for views with which they so violently disagree. I accept all of such comments, however written, as honest efforts to bring about a better administration of justice under law. What I have said will, I trust, help in achieving the same purpose.

I cannot bring these lectures to an end without saying a few words to express my deep respect and boundless admiration and love for our Constitution and the men who drafted it. These men met in convention at Philadelphia with instruction to do no more than amend the original Articles of Confederation. They disobeyed those instructions and came out of their convention with a document designed to unite the 13 jealous, independent colonies into one powerful nation. By this remarkable achievement they transformed that which had been the dream of a few into a living reality. They created a government strong enough and with power enough to protect itself against its enemies, both foreign and domestic, while leaving its control to the selected representatives of free citizens themselves. I am a typical example of this highly successful experiment in govment. Born in a frontier farm home in the hills of Alabama in the troublesome times of Reconstruction, after the Civil War and my early life was spent in plain, country surroundings. There I became acquainted with the "short and simple annals of the poor," among plain folks who learned most of their law and sound philosophies from the country schools and churches. In due course the people of Alabama chose me to be their United States Senator. I served in the Senate until appointed Associate Justice of the United States Supreme Court in which position I have now served for more than 30 years. It is a long journey from a frontier farm house in the hills of Clay County, Alabama to the United States Supreme Court, a fact which no one knows better than I. But this Nation, created by our Constitution, offers countless examples just like mine. My experience with and for our government have filled my heart with gratitude and devotion to the Constitution which made my public life possible. That Constitution is my legal Bible; its plan of our government is my plan and its destiny my destiny. I cherish every word of it, from the first to the last, and I personally deplore even the slightest deviation from its least important commands. I have thoroughly enjoyed my small part in trying to preserve our Constitution with the earnest desire that it may meet the fondest hope of its creators, which was to keep this Nation strong and great through countless ages.

THE PROPOSED COMMISSION ON HEALTH SCIENCE AND SOCIETY

Mr. MONDALE. Mr. President, in previous remarks concerning the proposed Commission on Health Science and Society, I have stressed the mounting interest in the social, ethical, and legal questions raised by recent heart transplant operations. I also have stressed how urgent some of these issues are today, particularly certain legal and financial questions.

An article by Howard A. Rusk, M.D., published in the New York Times, reviews well the current status of discussion of the legal issues involved in heart transplant operations. Particular stress is given to the question of the definition of death. As I have pointed out previously, this question is one that physicians and lawyers stressed the Commission ought to study in hearings on Senate Joint Resolution 145.

Mr. President, the social, ethical, legal, and public policy issues raised by heart transplants and other biomedical breakthroughs are numerous and urgent. I am confident that Congress will respond positively to the challenge of medicine and biomedical research and will create the Commission on Health Science and Society.

I ask unanimous consent that Dr. Rusk's illuminating article be printed in the RECORD.

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

DEFINITION OF DEATH: HEART TRANSPLANT OPERATIONS RAISE SCIENTIFIC, LEGAL AND ETHICAL QUESTIONS

(By Howard A. Rusk, M.D.)

No sooner had Dr. Christian N. Barnard completed the world's first heart transplantation at the Groote Schuur Hospital in Capetown, South Africa, when physicians, theologians, philosophers and lawyers began raising scientific, ethical and legal questions.

The simplest and most basic of these questions "What is death?"

In most states death legally occurs when the individual is declared dead by a licensed physician, the basic criteria being no pulse and no heart sounds.

Even the old mirror test is used as a criterion by many lay people when death occurs in the absence of a physician. If the mirror is held over the mouth and no moisture gathers, the individual is presumed to be dead.

RARE REPORTS CITED

These simple basic criteria are not always accurate, as evidenced by rare reports of individuals pronounced dead but later found to be alive in the morgue or on the autopsy table.

In an issue of The Journal of the American Medical Association earlier this month, Drs. M. Martin Halley and William F. Harvey of the Washburn University School of Law,

Topeka, Kan., proposed the following general definition of human death:

"Death is irreversible cessation of all of the following. (1) Total cerebral function, (2) spontaneous function of the respiratory system, (3) spontaneous function of the circulatory system.

"Special circumstances may, however, justify the pronouncement of death when consultations consistent with established professional standards have been obtained and when valid consent to withhold or stop resuscitative measures have been given by appropriate relatives or legal guardian."

The authors noted that components of commonly accepted unofficial medical definitions of death are: insensibility, cessation of respiration, cessation of circulation, and irreversibility.

They list an evolving but unofficial legal definition of death as: cessation of "vital functions," cessation of respiration, cessation of circulation and impossibility of resuscitation.

SUGGESTED DEFINITION

In his book "Courtroom Medicine," published last year, Marshall Houts, a lawyer gave the following suggested legal definition of death:

"Death is the final and irreversible cessation of perceptible heart beat and respiration. Conversely, as long as any heart beat or respiration can be perceived, either with or without mechanical or electrical aids, and regardless of how the heart beat and respiration were maintained, death has not occurred."

A definition by Pope Pius XII in 1957 stated:

"Human life continues for as long as its vital functions, distinguished from the simple life of the organs, manifest themselves without the help of artificial process."

The development of the artificial kidney machine and the heart-lung machine have caused many physicians to develop a concept of "functional death" when the brain and nervous system are permanently destroyed, even though many important organ systems are kept functioning artificially.

These questions took an unusual turn recently when physicians at St. Luke's Episcopal Hospital in Houston, Tex., transplanted the Heart of Clarence A. Nicks, 36 years old into J. M. Stuckwish, 62.

Mr. Nicks had died as the result of a beating he received in a Houston bar.

The county medical examiner, Dr. Joseph Jachimczyk, has now raised the legal question that when the assailants, who have since been arrested, are brought to trial, the defense may contend that Mr. Nicks died as the result of the removal of his heart for the transplant. He also raises the question as to whether the transplant was a technical violation of the law and noted that the autopsy required in the case of violent death cannot be considered complete when a vital organ is missing.

PROPOSALS FOR LAW

Dr. E. Blyth Stason, professor of law at Vanderbilt University, has been working for the last three years with a group of experts to draw up proposals for a uniform law governing the donation of various organs. He reports that 31 states have some type of law on this subject but they are widely divergent and inconsistent.

His group study with its recommendations should be ready some time this year.

In the meantime, the American Heart Association recently announced that it would make a thorough investigation into the scientific, legal and ethical problems resulting from human heart transplantation. The objectives of the study will be:

Establishment of criteria for death and the rights of the heart donor.

Formulation of criteria for selection of a heart recipient.

Development of technical guidelines for institutions and surgical teams planning human heart transplantation.

Identification of potential donors and the establishment of organ registries.

Development of appropriate legal safeguards to protect the donor, recipient and physician, and determination as to whether legislation is required, and if so, whether state or Federal legislation would be more appropriate.

Analysis of development and treatment costs of artificial heart as well as heart transplant programs and recommendations for national financial commitments in future years.

Guidelines for continuous education of the public in interpreting the limitations as well as the potential of heart transplantation.

The task to which the American Heart Association has assigned itself is complex and difficult. The study panel includes the leading cardiologists of the country, who are especially well qualified to undertake this formidable task.

Unless there is clarification of the definition, the scientific ethical and legal problems will be compounded to the point of insolubility.

PMA CRITICIZES MONOPOLY SUBCOMMITTEE STUDYING DRUGS

Mr. NELSON. Mr. President, on April 1, 1968, Mr. Joseph Stetler, president of the Pharmaceutical Manufacturers Association, addressed the annual meeting of his organization. His state of the industry address contained references primarily in the form of criticism of the hearings which the Senate Monopoly Subcommittee has been holding on competitive problems in the pharmaceutical industry.

Mr. Stetler does not regard as the main challenge to the drug industry the need for advances in the search for better drugs to treat and cure diseases, nor the problems of medical costs, but rather the attention which the industry has recently received from congressional committees and Federal agencies.

Constructive explorations about the industry have been pictured by Mr. Stetler as plainly "designed to inflame public opinion against pharmaceutical manufacturers and to create serious doubts in the public mind over the prescribing habits of physicians."

Let me make it clear that our hearings have in no way been an attempt to create ill will toward this great industry. We are simply studying the operations of the industry and its problems in the belief that important matters of public interest are at stake: the health and the pocketbook of the American public.

Yet, Mr. Stetler has charged, time after time, that our hearings have been biased against the industry. As a matter of fact, Mr. Stetler's disapproval of the hearings was voiced 4 months before the hearings even began. On January 21, 1967, at a meeting of the Texas Medical Association in Austin, Mr. Stetler said:

> We are facing a hydra-headed threat from two directions. Senator Gaylord Nelson of Wisconsin, Chairman of the Senate Monopoly Subcommittee of the Small Business Committee, has announced he is going to hold drug hearings during the next couple of months. This will undoubtedly mean side trips into the field of prices, profits—as well as industry marketing and promotion. It sounds like an inquisition in the classic mold, which will test our capacity for taking verbal punishment, our ability to absorb ill-founded accusations and bounce back with reason and truth, and our willingness to stay on our feet fighting for what we believe is right and best for the Nation's health care.

He had thus categorized the study long before its initiation. And he has continued to accuse the committee of presenting a one-sided case against the industry. On November 1, 1967, he told the National Association of Retail Druggists:

> I cannot emphasize too strongly the significance of the Nelson hearings as they stand today, not only to drug manufacturers but to the health professions and the public as well. If, as is now the case, the final record of the Nelson hearings is filled with distorted and biased material, it could eventually become the foundation for ill-conceived legislation such as I have just described. The record should and must be straight in the public interest.

Mr. Stetler seems to have forgotten that 1 week before our hearings began, he and a PMA attorney discussed the hearings with me in my office. I told them at that time that the PMA would have all the time they wanted to be heard, and that any individual firm who so desired would be welcome to appear before the committee.

The PMA has been given 3 full days in which to present their case, and they have asked for another day which they soon will have. Of the 140 members of the PMA, only four firms have volunteered to appear and all four were heard promptly. One, in fact, on only a few days notice.

Of the 116 witnesses who have appeared so far, over half have been medical doctors, pharmacologists, drug company officials and economists, who certainly could not be accused of having antidrug industry views.

I have said on innumerable occasions that all viewpoints will be heard. I stated publicly several times during the first few weeks of hearings that any company which wanted to be heard should contact me. Only three did. As more witnesses can be scheduled, they will be heard.

The PMA has at its command a staff of over 50 people in its Washington office, as well as all the resources of all 140 drug firms with all their expertise and hundreds of thousands of dollars to hire public relations firms, consultants such as the Arthur D. Little Co., and knowledgeable legal advice. They are spending over $1 million in Reader's Digest advertisements alone to publicize their views. Millions of these Reader's Digest reprints are being sent all over the country. The PMA also has the command of their own newsletter, dozens of trade magazines, and scores of writers.

I have a staff of two professionals—one economist and one research assistant.

While the PMA can pay a total of $40,000 for the services of six economists to testify, the committee pays only a $16-a-day fee for expenses plus transportation to witnesses it invites.

In his speech, the PMA president does not answer the issues that have been

raised over the past year as regards the apparently quixotic pricing structure of the industry, or the misleading advertising with which many firms have been charged by the FDA. He does not answer the problems of maintaining consistent high quality in drug production. He does not offer constructive approaches to modernizing some of our antiquated drug laws. He does not speak to the problem of bad drugs being manufactured by drug firms—large and small.

He prefers to attack the integrity of the committee rather than airing the issues. He does not discuss the price revelations the committee has revealed. Why did Schering, for instance, sell its brand of prednisone for $17.90, and Parke-Davis its prednisone for $17.88, when Merck was charging $2.20 for the same product and Wolins Pharmacal, a small drug house, charged the druggist only 59 cents?

Nor does Mr. Stetler discuss the fact that both Schering and Parke-Davis reduced the price of prednisone by 40 and 80 percent after the hearings discussed that raise.

Nor does Mr. Stetler discuss the fact that as a result of the hearings on chloramphenicol the Food and Drug Administration tightened up on the drug's labeling and warnings and that 306,000 of the Nation's doctors were warned against its misuse—each by a personal letter from FDA.

Mr. Stetler obviously would prefer not to answer these facts, but rather would use a specious argument to cloud the issues.

I ask unanimous consent that Mr. Stetler's speech be printed in the RECORD.

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

REPORT OF THE PMA PRESIDENT, 1968

(Presented by C. Joseph Stetler, president, Pharmaceutical Manufacturers Association, PMA annual meeting, Boca Raton, Fla., April 1, 1968)

Mr. Chairman, Ladies and Gentlemen, I welcome this opportunity to report to you on some of the events of the past year which have been as strenuous, as they have been total, in their impact on all of us.

Two years ago when I stood here for the first time as president of the PMA, I spoke of my pride in the pharmaceutical industry and my faith in its ability to continue to make a significant contribution to the health of people throughout the world.

Today my pride and my faith are greater than ever. The response of our member firms, individually and collectively, to the last 12 months of legislative and regulatory attack has been heartening. We can all take pride in it as a demonstration of the industry's resolve to overcome the difficulties which have beset us for too many years.

I want to express my deepest gratitude for the wise direction and encouragement of the Board, our officers and our member firms during this turbulent period. Members of the PMA staff, too, have worked long and effectively, and I would like to salute their efforts on this occasion.

I wish that I had the time today to review with you the details of the "close call" we had last December involving the national formulary, generic prescribing legislation sponsored by Senator Russell Long, Chairman of the Senate Finance Committee. Suffice it to say that thanks to some effective, combined resistance and some responsible leadership in Congress, the measure did not pass. Instead, an amendment sponsored by Senator Hartke of Indiana was adopted which mandated the Department of Health, Education and Welfare to conduct a study of the Long Bill (S. 2299) and a similar measure introduced by Senator Montoya (S. 17) and to report back to the Congress by January 1, 1969.

What I am going to discuss today is the President's Health Message, the legislation introduced or planned to implement his drug proposals and the Nelson hearings—to bring you up to date on where we are in these areas and what I believe the future holds.

In doing so, I feel like the commentator who was giving a year-end news wrap-up and said, "Ladies and Gentlemen, the world has so many headaches that if Moses came down from Mount Sinai today, the only tablets he'd carry would be aspirin." To us in the drug industry, that is an uncomfortably accurate thought for we certainly know something about headaches.

I am sure there are many who regard current drug events as much too serious for jokes. However, I can't overcome the temptation to point out that, according to the ancient and honorable tradition of the Chinese, this is the "Year of the Monkey." Viewing various developments around us, I think we might reasonably ask: "Only in China?"

Indeed, there is a great deal of monkey business in the air in this corner of the world, and a lot of it is aimed at us. Next year, incidentally, is the "Year of the Chicken" in the Chinese calendar. I won't comment on that except to express the sincere hope that this bit of Oriental lore will not lend itself to any analogies insofar as we are concerned in the time of testing that lies ahead.

And we need have no illusions. We face renewed challenges in the coming year every bit as serious and intense as those we have come through in the past. Again, we are to be called on to fight to prove that our industry is an institution of service to mankind; that we are dedicated to producing the best, the purest, the most effective drugs in the world; and that we cannot fulfill this aim if our operations and our progress are to be stifled by excesses of government control.

In his health message of a few weeks ago, the President called for government action to slow down or reverse the upward trend of medical care costs of the last decade. The pharmaceutical industry has been and continues to be fully in agreement with the President's objectives in that area.

Yet, we quite properly cannot see why drugs were singled out for such specific and hypercritical attention when actually prescription drug prices have been the only moderating influence in the steady rise in illness costs. As you all know, drug prices have declined 10% in less than 10 years, according to the Bureau of Labor Statistics Consumer Price Index. Moreover, drugs now take only 9.8 cents of the health care dollar—compared to 11.7 cents in 1957. Clearly, the industry's products are already succeeding in holding down the cost of medical care.

It was also interesting to note that of all the increases in the cost of health care between 1965 and 1975 projected by the President, the predicted rise in payments for drugs was by far the smallest—65%. But let's look further at the prophecy regarding drugs. The choice of words here is important. Note the reference was to arise in "payments" for drugs—that is overall expenditures for drugs, not their prices—a vastly different matter.

With a burgeoning population, a mounting level of medical care and the probability of new drugs that will find wider uses, payments for drugs in the aggregate doubtless will rise. The price picture is entirely different, however. As I have noted, the portion of the medical care dollar devoted to prescription drugs has been declining for years and we predict that it will continue to decline. Even using the President's own figures, drug payments in 1975 will be a substantial 27% *smaller* portion of the medical care dollar than they are today.

To support his call for legislative and administrative actions, the President cited the report submitted last November by the National Advisory Commission on Health Manpower, which listed three major deficiencies in present practices which contribute to unacceptable increases in medical costs.

There was *no* reference in that report to drugs or drug costs. Yet the President's message spoke of the need to avoid "exhorbitant" prescription charges which would result in "robbery of private citizens with public approval."

This is curiously harsh language to apply when discussing that increment of health care which represents the smallest fraction of the whole and which, according to the government's own figures, is becoming markedly smaller with the passage of time.

In his message, the President asked that the Secretary of HEW be authorized to control the price of drugs for beneficiaries of several government health programs by establishing a "reasonable" cost range for drug products. This schedule apparently is intended to specify the maximum amount of federal reimbursement for medications prescribed for government beneficiaries. The physician could prescribe a more expensive drug if he chooses but the federal payment would be limited to the Secretary's price range.

As yet, the Administration's "price control" bill has not been introduced and consequently any in-depth consideration must be delayed. You will well remember, however, that the Senators Long and Montoya bills have and do include "price control" sections. Those provisions, which we fought successfully last year, could be the blueprint for the current effort.

While urging that other courses be adopted, it should nevertheless be noted that the Long-Montoya bills would provide for a supplier's price list to be issued by the Department of Health, Education, and Welfare with Federal reimbursement also based on a "reasonable cost range" of prices for the generally less expensive generic products, plus a fixed dispensing fee for pharmacists.

The measures would impose Federal price controls on drugs for patients under government financed programs, favoring—not the best products—but the cheapest, with quality relegated to secondary consideration. And they would write into law the requirement that drugs of unidentified source be recognized as the equals of the best on the market—an approach which is unique in all the free world. Nowhere outside of communist states is the physician's and the pharmacist's knowledge and experience ignored as this would ignore them. Not even in Western nations, where medicine is socialized, is this kind of pharmaceutical dictatorship practiced.

A deeper consequence of the measures would be their effect on the industry's growth and the future course of its scientific research which has carried our health care system to be unrivaled heights of achievement in the last 30 years, while creating new and greater markets for its products all over the world.

As we weigh all the factors before us, there is one basic point which we must bear in mind. Whatever system is worked out for assuring reasonable charges to the government on drug purchases will not be, nor can it be confined solely to the government financed share of the market. It is inevitable that whatever measures the government takes will have a prompt and determinative impact on the entire market.

Moreover, the present tide of events forces us to the assumption that Medicare itself

will embrace increasingly larger segments of the population in the years ahead.

Turning now to the methods which might be adopted to assure reasonable charges for government financed drug purchases, there seem to be two very clear-cut choices:

One—a system in which maximum charges at the manufacturing or retail level, or both, are established by government direction (as proposed in the Health Message) or

A system in which the government's efforts are aimed at making price competition work more effectively in the various drug markets, with the level of reimbursable charges being the level established by competitive forces.

Surely, there can be no question over the course we would want to see adopted. The history of these times has taught us that the quickest answer by government planners when they encounter a new problem is more and more controls. Of all industries, we know something about controls of various kinds and their stultifying effects on progress. It requires no extraordinary imagination to picture the potential added injury that government-administered prices would inflict on the drug industry and its effect on competition.

Despite comments by some to the contrary, we live in a highly competitive market. We know how to survive and grow in the healthy climate of competition. Rivalry for success among responsible pharmaceutical manufacturers remains the strongest safeguard for the health of future generations who are dependent upon the development and vital city of a progressive and successful drug industry.

We should have no hesitancy, however, in stating that certain barriers to perfect competition do exist because of the unique nature of the industry itself. The point is to bring those barriers into the open and suggest what can be done to overcome them within the framework of a free marketing system.

One of the foremost among them is the fact that, unlike other consumer markets, the choice of product is made by the doctor who does not pay for the commodity, rather than by the consumer, who does. As a result, some doctors have probably been less sensitive over the years to price differences between competing products than is desirable. Actually, as you know, progress has been made in correcting this condition. Doctors today are being strongly urged by their medical organizations to take prices into consideration along with medical judgment and quality when prescribing drugs for their patients.

A second factor is the level of price competition at retail.

What steps could appropriately be taken to eliminate these rigidities in the drug market, thus providing for more effective competition? How can the government assure reimbursement for drugs at reasonable price levels, commensurate with good quality and good service? The key to better competition, in my opinion, at both the manufacturer and retail level is *more price information.*

Ways can undoubtedly be found to more effectively communicate to the doctor, and to the patient and his family information on drug prices and the relative quality of products from which informed competitive choices can be made.

It cannot be argued that there are not wide differences in the price of drugs, the same as there are wide differences in drug quality. But it has been accepted in the order of things that the public regularly balances quality against price and is often willing to pay a higher sum for compensating differences in quality and services. Product differentiation and price variations are hallmarks of our economy

The prime consideration is that the price of prescription drugs shall not, as has been proposed, be forced into some narrow, restrictive band based on relatively low-cost products offered by firms not known for their quality standards, for national distribution, nor for creative research activities.

If price alone becomes the major factor in the prescribing, dispensing or purchasing of drugs for any segment of our population, the quality of the products provided cannot be assured. The recipients of federal aid under a short-sighted price control program will perforce become second-class medical citizens.

It would be a national tragedy if the government's attempts to solve the price problem unwittingly promoted general acceptance of the myth of generic equivalency, forced doctors to prescribe products which do not satisfy their professional judgment, and at the same time undercut the principle of manufacturer identification as a trusted measure of drug quality. It would be equally disastrous if the eventual effect of price-control action would be the drying up of resources on which future drug discoveries depend.

We have an obligation to fight bad legislation and an equal obligation to assist in a constructive search for ways to demonstrate that the government's goal can be reached without clamping new and unwise controls on this industry. Admittedly, there are practical difficulties involved. But clearly these can be resolved without disrupting our industry or the professional prerogatives of physicians and pharmacists. We ask only that those who consider the subject let isolated examples of alleged abuse be treated for what they are and that they look instead at the total implications of various courses of action which are being, and unquestionably will be, proposed.

Let me make one more point about the President's message. This program included a call for the publication of a drug compendium by the Secretary of HEW at the expense of the pharmaceutical industry. The industry believes it desirable that the matter be thoroughly explored by the appropriate committees of Congress. The PMA has been meeting frequently with the Food and Drug Administration and with medical and scientific groups to study the need for such a complex and comprehensive work. Among other things, we have found that the greatest need is to find out what physicians, the actual users, really need and want.

To fill this rather significant knowledge gap, the PMA has contracted with the Opinion Research Corporation of Princeton, New Jersey, to make a national survey to determine the views of the medical profession with respect to existing compendia, the need for a new "official" compendium, and if so, what it should contain and under whose auspices it should be published. Until these questions are answered, it is idle to assume that a new compendium is needed or what its format should be. When hearings are held on the Administration's compendium bill, we expect to be able to provide Congress with substantive information on the preferences of physicians.

The final, major item I would like to discuss is the centerpiece of the challenge we have faced and are currently facing in Washington. This is the interminable series of hearings being conducted by the Monopoly Subcommittee of the Senate Small Business Committee.

Incidentally, if I tend to lean forward a little when I talk, it's because I've been in a "full Nelson" for the last nine months and unlike professional wrestlers, I can assure you that neither the Senator nor I have been faking.

Since their inception last May 15, these hearings have plainly been designed to inflame public opinion against pharmaceutical manufacturers, and to create serious doubts in the public mind over the prescribing habits of physicians.

The theme on which the investigation has played from the first day is that all drugs with the same generic name, which meet USP or NF standards, are chemically and therapeutically equivalent regardless of their source and therefore can all be administered with equal expectations of effectiveness. The scientific community, the medical profession, the drug industry and the Food and Drug Administration all know this is not true. But the false premise, nonetheless, is being planted in the public mind.

The obvious purpose of this campaign is to convince members of Congress and the public that generic prescribing is not only medically safe, and a reasonable way for the government to hold down the cost of the health care it finances, but also is justified by the alleged "high prices" and "unwarranted profits" of the drug industry.

Our purpose has been to do everything in our power to inject some scientific truth and objective reason into the proceedings. It hasn't been a goal readily achieved in the face of the manner in which adverse testimony has been arrayed against us while other witnesses who do have something to offer the Subcommittee in knowledge and experience have been foreclosed from testifying.

We know, for example, of at least 25 reputable and distinguished individuals and organizations in the health and scientific professions outside the industry who have asked in writing to be heard. Not one has been scheduled. Innumerable written statements have also been submitted for the hearing record in opposition to the thesis Senator Nelson has been trying to establish. With very few exceptions, this material has been withheld from the public and to date apparently from the record.

Parenthetically, I might point out that the Subcommittee is somewhat less modest when it comes to publicizing allegations which fit the viewpoint of the Chairman and the staff. On the days when our witnesses are scheduled to testify, we may be sure that the session will be opened by a highly-colored, self-serving press release. Our supposed opportunities to present statements have been monopolized by the Committee staff and the Chairman with our testimony being relegated to incidental status in the proceedings.

In any review of the Subcommittee's attitude toward the drug industry, its treatment of Parke, Davis must rank as Exhibit A. Last November 29, in testimony before the Subcommittee, evidence provided by Parke, Davis dealt a heavy blow to the theory of therapeutic equivalency on which the case for generic prescribing will stand or fall. The firm has been required, as you are aware, to pay dearly for this effort.

Its sin was placing in the record results of clinical trials of various makes of chloramphenicol compared with Parke, Davis' own Chloromycetin, on which its patent expired in 1966. The tests verified by the FDA showed that the other products did not measure up to Chloromycetin's performance.

For the first time, there was concrete evidence in the hearings record regarding drugs from various sources containing the same active ingredient, meeting the accepted standards, and in this case, because they are antibiotics, bearing an FDA certification. Yet they showed wide variations in clinical effect when put to the scientific test.

Far from deserving the treatment it has received, Parke, Davis & Co. should be accorded the gratitude of the public and members of Congress for shedding light on a question of paramount importance in the current debate on new drug legislation. And it merits the warmest commendation of the drug industry for its enterprise and fortitude in coming forward with the facts. Having spent several hours as an industry witness

before the Nelson Committee, I can tell you that the chloramphenicol data helped greatly in sustaining our position on the drug equivalency issue.

In acknowledging the part played by various firms and individuals in the industry's presentation before Senator Nelson to date, I would like to express appreciation to our panel of scientific witnesses for their testimony on November 29. Included were Leslie M. Lueck, Vice President for Quality Control and Regulatory Affairs, Parke, Davis & Company; Dr. A. E. Slesser, Associate Director of Quality Control, Smith Kline & French Laboratories; Dr. Leonard A. Scheele, President of Warner-Lambert Research Institute; Dr. Hart E. Van Riper, Vice President of Geigy Pharmaceuticals, and Leland W. Blazey, Vice President, Manufacturing and Engineering, McNeil Laboratories, Inc. These men spent a great amount of time preparing and testifying and they deserve our combined thanks, as do their companies which made them available.

Any discussion of the hearings should also include an accolade for the representatives of the five individual companies who appeared very effectively before the Subcommittee—Schering, Parke Davis, Lilly, Squibb, and Ciba. These men did a fine job under some very trying circumstances.

Let me conclude by saying simply that as we look ahead we know we are going to have our hands full, facing problems from many directions, administrative, legislative and regulatory. It is an extension of our long fight to safeguard for the people themselves a progressive and dynamic pharmaceutical system without equal anywhere on earth.

And it should not be forgotten, in addition, that 1968 is an important election year when thousands of men and women are competing for 435 seats in the House of Representatives, 34 in the Senate, 21 Governorships and the Presidency and Vice-Presidency. Bipartisan White House and State House politics are affecting every decision, hovering over every hearing and coloring every important statement made.

You have, as I noted at the outset of these remarks, always responded admirably when called upon in past periods of stress. I know you will again, and working closely and effectively together, I am sure we will discharge our obligations to our industry and the nation it serves.

GUN LOBBY EARNS PUBLIC CRITICISM

Mr. DODD. Mr. President, the principal stumbling block to effective firearms legislation in this Congress, and in every Congress back to 1938 and before—by its own admission—has been the National Rifle Association and its satellite organizations that parrot its unreasoned opposition to 20th century firearms laws.

The NRA, its willing gun industry partners, and those innocent organizations of sportsmen, misinformed and thus misled by this cabal of the firearms industry, has as its sole objective opposition to any meaningful Federal laws that would conform to the needs of our time. Unrelenting opposition to laws that would keep firearms out of the hands of the irresponsibles, criminals, juveniles, and the demented has been fostered and financed by this combine.

It is encouraging, however, to find that the public has caught onto the gun lobby propaganda for the first time in a generation. The distortions of fact the gun lobby expects the public to believe are hard for reasonable men to accept.

The NRA and its cohorts oversold their flimsy arguments, with the result that they have insulted the intelligence of a large part of the public, rather than gained its sympathy and allegiance.

Consider the sentiments expressed in the opening paragraph of an editorial in the Green Bay, Wis., Press-Gazette on January 8, 1968. It said:

Some of the public positions being taken by the National Rifle Association are so infantile that there must be a question as to whether they are being taken in seriousness or whether they are being taken only in an attempt to whip up the membership against what the NRA views as the forces of evil.

And the editorial then concludes:

The National Rifle Association has been swinging wildly in its opposition to a simple law to try to regulate the mail order sales of deadly weapons. It has reached a low in trying to tell the American people its sons are not trained properly for duty in Vietnam because the Camp Perry Marksmanship contests were ended.

The Seattle, Wash., Post-Intelligencer on April 29, 1968, said this of the position taken by the gun lobby's opposition to the first Federal gun law to reach the floor of the Senate in 30 years:

Thanks to the powerful National Rifle Association lobby, the most desperately needed section of the bill was again killed in Committee.

The section to which the Post-Intelligencer was referring, of course, was the inclusion of rifles and shotguns in title IV of the omnibus crime bill, S. 917.

Following the defeat of strong firearms laws in the New York State Legislature this year by an NRA-led lobby, the New York Post on May 15, 1968, had this to say about the machinations of the gun lobby on Congress:

A serious effort is under way in the Senate to substitute genuine controls for the artificial amendments to the Safe Streets Act reported out by the Judiciary Committee. The NRA-led campaign of innuendo and intimidation is many times as fierce as any it waged in Albany. The best hope for legislation lies with Senators who refuse to be cowed by either.

And on April 26, 1968, the Yonkers, N.Y., Herald Statesman again cited the National Rifle Association for its outrageous opposition to laws to disarm the criminal. It said in part:

Whenever the issue of gun control has arisen, the National Rifle Association has fired volleys of outrageous propaganda that, in turn, have resulted in blizzards of anti-control letters that have invariably had the desired effect on legislators.

But if most gun owners, along with most non-owners favor controls to curb the disgracefully unfettered traffic in firearms, the Congress has been watching the wrong barometer.

In Charleston, W. Va., the Gazette on April 28, 1968, began its editorial this way:

The National Rifle Association, which for some unaccountable reason is permitted to lobby Congress at taxpayer expense, has long argued that gun registration laws and laws forbidding the unrestricted sale of lethal arms merely aid the criminal at the expense of the law-abiding in American Society.

The facts shatter such nonsense.

Mr. President, there is an almost endless parade of such public opinion on the posture of the gun lobby generated by the misrepresentation and distortions of the firearms problem and its legal remedies under law.

And almost without exception, the picture they paint is one of a weak Congress knuckling under to a strong gun lobby.

Consider these excerpts from the April 10, 1968, editorial of the News in Florence, S.C.:

. . . Why then does the Congress become paralyzed when it comes to legislating gun control laws . . . Probably the main source of the paralysis is the powerful gun lobby of which the National Rifle Association is the most articulate spokesman.

The NRA misuses the Second Amendment to the Constitution in its effort to prevent constructive action.

The gun lobby seems to have been calling the tune during the last five years—since the assassination of President Kennedy—which featured a lot of talk about gun control but no action.

After years of experience with the gun lobby in its incessant battle to upset New York State gun laws, the editors of the Binghamton, N.Y., Sun-Bulletin have a special insight into the workings of the gun lobby. On April 26, 1968, they described it this way:

The gun lobby consists generally of persons and firms who make money from the millions of Americans who like to own and use firearms.

The lobby's natural interest lies in blocking any and all inhibitions on the gun traffic.

Its method is simplicity itself. By misrepresentation, distortion and outright lies, the lobby frightens its customers—the people who buy its arms, ammunition and publications and who pay dues to its organizations—into believing that they are going to be disarmed.

The frightened customers get their wind up, take pen in hand and let their legislators know exactly how they feel about the alleged conspiracy that is designed to leave them helpless in a troubled world. The letters arrive in Washington by the truckload.

The letter writers have been exploited, of course, by the gun lobby, duped.

Mr. President, I have here a number of other editorials expressing similar views of the gun lobby, and of the effect the gun lobby has had on Congress in keeping the Senate from voting any strengthening provisions to the Federal firearms laws for the last 30 years.

I ask unanimous consent that the articles I have quoted from here, along with others from Auburn, N.Y.; Milwaukee, Wis.; and Perth Amboy, N.J., be printed in full in the RECORD at this point, Mr. President.

It might be of some help to my colleagues in assessing the pressures that are being brought to bear on them as they consider the firearms section, title IV of the Safe Street Act, S. 917.

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

[From the Auburn (N.Y.) Citizen-Advertiser, Apr. 25, 1968]

STRICTER GUN CONTROL WOULDN'T HURT HUNTERS

Stricter control of the sale of firearms of all kinds is not going to prevent political

assassination; at best it would make it a little more difficult.

Yet federal control is amply justified and should be enacted into law as recommended by the President. But, as in the past, the gun lobby, headed by the National Rifle Association, has been at work in the halls and offices of Congress to prevent the enactment of such legislation.

No one wants to prevent any reputable citizen from owning firearms. All that is being suggested is that there should be an official record of who owns them and where they come from. In the case of the murder of Dr. Martin Luther King, Jr., the rifle which was apparently used was dropped in a nearby doorway; but so far it has been impossible to trace its ownership and origin.

A firearms control law would cost sportsmen and householders and others with legitimate reasons for possession a small amount in license fees. Why shouldn't they pay for the privilege?

America is no longer a pioneer, frontier country with Indians roaming the nearby woods or Redcoats in sight down the lane. It has become a highly urbanized society in which it is only sensible and reasonable to have some check on the whereabouts of lethal weapons.

[From the Milwaukee (Wis.) Journal, Mar. 13, 1968]

A CHILD WITH GUNS

If anything else was needed to dramatize the lethally casual attitude of Americans toward firearms, Monday's episode of an 11 year old Milwaukee boy and a home arsenal should do it.

The boy, who had received psychiatric treatment, terrorized his family with a loaded pistol, police said, fired a shot at his mother (it missed) and threatened the lives of both parents before police talked him into surrendering. He had loaded the family car with two rifles, two shotguns, three pistols and ammunition for all seven firearms. Police found eight loaded rifles in the basement.

Why anybody would keep such an arsenal in any home is a mystery to begin with. Why anybody would be so careless as to leave it available in a home full of children is even more incredible. The miracle was that no lives were lost.

The firearms lobby is fond of saying: "Guns don't kill—people do." True. But does this tired truism justify the leaving of a quantity of guns and ammunition in the path of a troubled child?

[From the Perth Amboy (N.J.) News, Feb. 24, 1968]

IT HAPPENED IN PERTH AMBOY

The pressing need for adequate federal legislation to control the sale of firearms through mail-order firms was demonstrated last week in Perth Amboy.

In an assault and battery case involving a store owner, an intruder brandished a tear gas gun which he fired in the face of the manager.

Perth Amboy Police Chief Paul J. Jankovich said a suspect arrested in the case told detectives that he obtained the tear gas gun by mail order.

The menace to public safety represented by the indiscriminate sale of weapons through the mail is demonstrated nearly every day in some part of the United States.

Meanwhile, Congress continues to delay action on a strong federal gun-control law to keep indiscriminately-sold weapons out of interstate shipment except to authorized dealers. Federal legislation could prevent the current easy purchase of guns by juveniles, mental defectives and ex-convicts.

New Jersey has a gun-control law but it is not applicable where interstate commerce is involved.

The public should make its views clear to the legislators in Congress.

[From the Binghamton (N.Y.) Sun-Bulletin Apr. 26, 1968]

GREATEST OF THE LOBBIES

For the first time in 30 years a piece of gun legislation of some significance is going to reach the Senate floor and be voted on.

This rare occurrence may come about next week. At least debate will be opened.

The gun control proposals are very limited and are part of an overall anticrime bill

As a result of long and depressing experience, the sponsors are not overconfident about the chances of passage.

They have learned that the fate of such legislation very likely rests in the hands of a remarkably effective group that can be described as the gun lobby.

It is the gun lobby, in fact, that is primarily responsible for successfully keeping scores of earlier gun control bills from getting as far as a floor vote, despite wishes to the contrary of a firm majority of Americans.

The gun lobby consists generally of persons and firms who make money from the millions of Americans who like to own and use firearms.

The lobby's natural interest lies in blocking any and all inhibitions on the gun traffic.

Its method is simplicity itself. By misrepresentation, distortion and outright lies, the lobby frightens its customers—the people who buy its arms, ammunition and publications and who pay dues into its organizations—into believing that they are going to be disarmed.

The frightened customers get their wind up, take pen in hand and let their legislators know exactly how they feel about the alleged conspiracy that is designed to leave them helpless in a troubled world. The letters arrive in Washington by the truckload.

The letter writers have been exploited of course, by the gun lobby, duped. But that isn't a critical factor in the mind of a member of Congress. The point is that they are angry. Thousands of angry voters, duped or not, represent a threat.

Claims of the gun lobby to the contrary, there has not been a piece of national gun control legislation with any serious chance of passage that would separate any mature, law-abiding reasonably stable gun owner from his firearms, or, for that matter, keep him from adding to them.

The simple aim of most of the gun legislation, as a matter of record, has been to make it somewhat harder for felons and idiots to arm themselves.

It is necessary to say somewhat harder, because, as a result of the pervasive influence of the gun lobby, it would be unrealistic to shoot for control as firm, say, as those in most states that apply to ownership of an automobile.

At any rate, the bill that will be debated in the Senate next week is of a most-limited character, so much so, in fact, that it just might be ignored by the gun lobby, in the hopes that it will settle the issue for a time.

The bill would only:

Prohibit interstate mail order sales of handguns—pistols and revolvers—to individuals.

Ban over-the-counter sales of handguns to nonresidents of a state and to persons under 21 years of age.

Curb the imports of surplus military weapons and other firearms and place tighter controls on sales of antitank guns, hazookas, mortars, grenades and other highly destructive weapons.

That is pretty mild stuff in a nation where, since the turn of the century, 750,000 people have been killed by privately owned guns, a third again as many as have been killed in all our wars.

[From the Charleston (W. Va.) Gazette]

SULLIVAN LAW GOOD LAW DESPITE RAVINGS OF NRA

The National Rifle Assn., which for some unaccountable reason is permitted to lobby Congress at taxpayer expense, has long argued that gun registration laws and laws forbidding the unrestricted sale of lethal arms merely aid the criminal at the expense of the law-abiding American society.

The facts shatter such nonsense.

In 1965, a study conducted by the Massachusetts Department of Public Safety revealed that only six weapons out of 4,506 retrieved from criminals in the state over the previous eight years had been stolen. More than 4,000 had been purchased outside the state in over-the-counter sales in Maine, New Hampshire and Vermont, none of which has on statute books the strict legislation prohibiting sales that Massachusetts has.

Surveys in Newark show that 80 per cent of the guns taken away from criminals were bought beyond New Jersey borders.

The NRA additionally delights in castigating New York State's Sullivan Law, stiffest in the nation. This law stipulates residents can't buy or possess a handgun in the absence of a police permit, and the law is sufficiently well enforced within New York City that out of a total population of 8 million only 17,000 permits are held.

At the congressional hearings of 1964, an NRA director asserted: "New York's so-called Sullivan Law is the most restrictive gun legislation on the statute books. Yet it is a complete failure, not only in keeping guns out of the hands of the criminal element but also at reducing the crime rate."

Again the facts are quite different, and, indeed, if the nation had a Sullivan Law, New York State and City would greatly benefit, because residents wouldn't be able to acquire guns through mail orders or by traveling to areas where they are easily acquired.

The rate of murder by gun in New York City, for example, is 25 per cent, in Dallas the rate is 72 per cent and 65.9 per cent in Phoenix, two cities having virtually no law regulating firearms sales. In comparison with the nation's largest cities, New York has the fifth lowest assault rate, the third lowest murder rate, and the lowest robbery rate.

If this is "complete failure," as contended by the NRA director, police departments of most U.S. metropolises would undoubtedly welcome a similar "sorry" record.

Current gun control legislation before the U.S. Senate needs to be strengthened drastically. What the nation should have is prohibition of mail order sales to the private citizen and registration of all guns, so law enforcement authorities across the nation know who owns a gun.

It is absurd to talk about curbing crime and lowering murder rates until Congress moves against merchants of murder selling weapons of murder indiscriminately.

The Sullivan Law is a good law, and despite the deliberate lies concerning the law promulgated by the NRA, it is a law that does what it was designed to do—curtailing gun ownership among criminals and the mentally unstable. The law works, and it's high time Congress adopted it for all 50 states.

[From the New York (N.Y.) Post, May 15, 1968]

STICK-UP BY THE GUN LOBBY

There was no roll-call vote in the State Assembly on gun-control legislation. Instead, the issue was decided on a show of hands. With the gun lobby at their backs, scores of legislators threw their hands up and the bill was beaten hands down.

The Legislature's familar reluctance to deal with anything controversial in an election year also partially accounts for this disgrace. It remains a fact that the dispute

was almost entirely manufactured by the National Rifle Assn. and its allies.

Defeat of gun-control for another year in Albany immediately underscores the urgency of the current campaign for it in Washington. There would be substantial compensation for the lack of state legislation in enactment of a comprehensive federal law requiring such basic controls as a ban on mail-order shipments of long guns—provided that the states are not given the power to overrule Washington.

A serious effort is under way in the Senate to substitute genuine controls for the artificial amendments to the Safe Streets Act reported out by the Judiciary Committee. The NRA-led campaign of innuendo and intimidation is many times as fierce as any it waged in Albany. The best hope for responsible legislation lies with Senators who refuse to be cowed by either. A great majority of Americans and, in fact, a majority of gun owners, support gun-control, as recent public surveys have shown. Their votes, rather than the threats and misrepresentations of the NRA, may count most in November.

[From the Seattle (Wash.) Post-Intelligencer, Apr. 29, 1968]

PROGRESS—SORT OF

For the first time in 30 years a bill which would impose any kind of significant new controls on gun sales has reached the Senate floor for debate. It is a limited but still remarkable victory for aroused public opinion.

The victory is limited because the bill would place curbs only on the sales of handguns and such highly destructive weapons as bazookas and mortars. Thanks to the powerful National Rifle Association lobby, the most desperately needed section of the bill was again killed in committee.

That section would have placed a ban on mail order shipments of rifles and shotguns, and it was this which was the keystone of the gun control legislation sought by the Johnson administration. Although a floor flight to restore the section is promised, its chance of success is minimal if not nonexistent.

Even though the real teeth of the proposed gun legislation thus have been pulled, the fact that any kind of significant new controls could get past the NRA watchdogs is a near miracle. It is a breakthrough in the right direction, however slight.

[From the Green Bay (Wis.) Press-Gazette, Jan. 8, 1968]

RIFLE CONTESTS AND COMBAT TRAINING

Some of the public positions being taken by the National Rifle Association are so infantile that there must be a question as to whether they are being taken in seriousness or whether they are being taken only in an attempt to whip up the membership against what the NRA views as the forces of evil.

In a January editorial, the NRA quotes an Army company commander in Vietnam as saying members of his unit were so poorly trained in rifle marksmanship that he had to order target firing at empty C-ration boxes during lulls in combat in Vietnam. If this is true, the NRA ought to be raising the dickens with the amount of training the Army is providing before sending men into combat.

But the NRA sees the whole problem as dating from the Defense Department's overdue decision to end the annual marksmanship matches at Camp Perry, Ohio, which were staged through the co-sponsorship of the Army and NRA. The annual sporting event had reached the point where $1.1 million of the taxpayers' money was to have been used last year.

If only the government would continue the matches, the NRA says, soldiers would be better suited for combat and lives would be saved. This is a cynical argument at a time when young men are being asked to accept the call for military duty and put their lives on the line in Vietnam.

Anyone who has ever served in the Army can testify that few of his comrades arrived with the experience of target firing from competition sponsored by the NRA. In fact, very few men had ever heard of it. To make its case, the NRA had better furnish statistics of those from the Camp Perry matches who enlisted to give the nation the benefit of the federally-financed rifle competition.

The fact was that the matches were held through the use of federal money and federal facilities because the NRA had enough political clout in the Congress and in the military establishment to make this possible. The Pentagon withdrew sponsorship because of the protests of public opinion.

Sen. Edward Kennedy provided the best description of what was going on. He said it was comparable to government financing of other sports events or a national bridge tournament.

The National Rifle Association has been swinging wildly in its opposition to a simple law to try to regulate the mail order sales of deadly weapons. It has reached a low in trying to tell the American people its sons are not trained properly for duty in Vietnam because the Camp Perry marksmanship contests were ended.

[From the Florence, (S.C.) News, Apr. 10, 1968]

GUN ATTITUDE INCONCEIVABLE

There is probably no aspect of the American system which baffles foreign observers more than the virtually unrestricted sale of firearms.

Simply send your money through the mails. And no matter who you are, you can receive in an early mail a high-powered rifle or some other deadly weapon. No federal law prevents it.

A panel of British commentators appearing on National Educational Television a few nights ago found the permissive American attitude toward guns inconceivable. Another foreigner has called the free sale of firearms "a disastrous shortcoming of America law."

Just last week, a gun control bill which would have set minimum restrictions on the sale of firearms was blocked by a nine-to-four vote in the Senate Judiciary Committee. Yet, the Gallup Poll has shown that the public overwhelmingly favors stronger gun control laws.

Why then does the Congress become paralyzed when it comes to legislating gun control laws.

Probably the main source of the paralysis is the powerful gun lobby of which the National Rifle Association is the most articulate spokesman.

The NRA misuses the Second Amendment to the Constitution in its effort to prevent constructive action. Proposed legislation would not infringe on the right of the people to keep and bear arms, but would only regulate that right in the interest of public safety and public welfare.

The gun lobby seems to have been calling the tune during the past five years—since the assassination of President Kennedy—which featured a lot of talk about gun control, but no real action.

The bitter fruits of inaction continue to mount. Criminals and individuals with unstable minds have no difficulty in acquiring deadly firearms. And there are disturbing reports of an arms race among ordinary citizens who are disturbed by the mounting crime rates and street violence.

Events of the past week should be sufficient to help Congress summon up the courage to overcome its paralysis and enact gun control legislation.

[From the Yonkers (N.Y.) Herald Statesman, Apr. 26, 1968]

MOST AMERICANS FAVOR GUN CONTROL

While senators wrangle anew over the control of firearms sales in President Johnson's anticrime bill, the perennial sidetrackers of gun control legislation might cast a glance at the results of a Louis Harris poll on the subject.

Mr. Harris reports that his sampling of public sentiment shows 71 per cent of Americans favor passage of federal laws that would impose tight controls on the sale of guns in this country.

What's more, the survey found that a majority of gun owners—65 per cent—favor such controls.

The foregoing becomes even more significant in view of the Harris finding that there are guns in 51 per cent of American homes.

These findings contrast sharply with lawmakers' previous readings of public sentiment. Whenever the issue of gun control has arisen, the National Rifle Association has fired volleys of outraged propaganda that, in turn, have resulted in blizzards of anticontrol letters that have invariably had the desired effect on legislators.

But if most gun owners along with most non-owners, favor controls to curb the disgracefully unfettered traffic in firearms, then Congress has been watching the wrong barometer.

Unfortunately, however, this would not be the only case in which legislators have mistaken an organized pressure campaign for the voice of the people.

For further instruction, watch what becomes of the Johnson gun-control legislation in the latest Washington go-round.

If history is any guide, the prospects are bleak—unless, for a novelty, Congress chooses to heed majority sentiment among the constituents.

THE ECONOMIC BASIS OF A JUST SOCIETY

Mr. SCOTT. Mr. President, Gov. Nelson Rockefeller is speaking today to the Economic Club of Detroit. I believe that the speech should be brought to the attention of all Members of Congress. Governor Rockefeller clearly defines some of the many problems which beset our great Nation today, and he makes some very sound recommendations for the near and long-term solutions to these problems. I commend the speech to my colleagues' attention.

I ask unanimous consent that the text of Governor Rockefeller's speech be printed in the RECORD.

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

THE ECONOMIC BASIS OF A JUST SOCIETY

(Text of Gov. Nelson Rockefeller's address before Economic Club of Detroit, May 22, 1968)

We are living through a time of decision as profound and as serious—and as strange—as any period in all America's history.

For it is at once a time of plaguing crisis and of rousing challenge. It is a time of doubt and division in our people. Yet it is also a time for hope and creativity. For us as a nation, it is an age of unmatched abundance and wealth. Yet for tens of millions among us, it is an age of unbearable poverty and need. And I doubt if any period in all our past has been taunted by such historic paradoxes.

The signs of crisis are real, of course, all around us.

We see the sickening decay of our great cities.

We see the widening gap that divides our comfortable and our poor.

We find the same gap in riches and resources dividing the globe itself.

We find our own economy—like all our national life—heavily troubled by the burden of the tragic war in Vietnam.

We find inflation unleashed and the dollar itself weakened and threatened as the basic currency of the free world.

From all this, there inevitably follow doubt, anxiety, and questioning of our future. And I have heard this questioning all over America.

Are our problems too huge—and the solutions too expensive? Are the ills so deep they can be cured only by surgery more drastic than the disease? Is the dollar being asked to do more and mean more at home and abroad than it possibly can? Is there any way to stop the inflationary spiral in which we now find ourselves?

These are realistic and understandable questions. But there are also realistic answers to them to be found in certain basic facts of American life.

It is a fact that we are by far the strongest nation on earth. It is a fact that our federal system of government on three levels—national, state and local—gives us a unique capacity and flexibility to meet our challenges. And it is a fact that our private enterprise system has immensely greater growth potential which, properly handled, can solve our problems in good order.

Order, however, is the key word. For the crucial truth is that we have allowed our society and our economy to go out of balance. And it is not possible to correct the *one* without correcting the *other*.

It is therefore vital to our whole national life that we restore balance to our fiscal affairs. It is necessary to discipline ourselves to set clear priorities and to make hard choices. And these choices will demand rare political courage. For they will determine what things we shall immediately *do* and what things we shall—reluctantly but responsibly—*defer*.

This is not to give higher place or fuller attention to the crisis of our *dollar* than to the crisis of our *society*. Rather it is to say that only a sound, healthy, dynamic economy will permit us to mobilize the vast and expanding resources we need to rebuild our cities, to erase poverty, and to heal our society.

To those people who live in poverty, the crisis of the dollar, which grows from inflation, is the cruelest stroke of all. It cripples the buying power of those who have the least money and the least leverage to get more money. And it ultimately threatens the darkest day of reckoning: a recession that will take jobs and wages from the citizens most in need of them.

The weight of inflation, in short, bears down most heavily on the poor. Because this is true, we may well have done more damage to the well being of lower income families, through the inflation of the past 2½ years, than we have done good for them through all the so-called Great Society programs.

It is a strange paradox, as I have said, that we find ourselves in financial crisis in the midst of financial plenty.

We stand, in fact, at a kind of perilous peak of prosperity. Our gross national product reached an annual rate, in the first quarter of this year, of $827 billion—seven percent above the previous year. The unemployment rate is 3.5 per cent, the lowest in 15 years.

Average earnings in manufacturing are nearly $3 an hour, up nearly 50 per cent in a decade. And corporate profits are at record levels.

All this—and yet, we are in serious trouble. We are in trouble because of inflation. And because our dollar is in trouble, so is our economy.

We threaten to resemble the old steam engine that went faster and faster and faster—until it blew up. Consider the course of our inflation . . .

Price inflation is not only increasing: its rate is accelerating. Three years ago, the increase was a tolerable 1.2 per cent per year. Two years ago, it jumped to more than three per cent. Now, it exceeds four per cent.

Racing along to keep pace with this inflation, wage increases this year have exceeded six per cent. In such a period, prices work on wages and wages on prices. And the spiral goes up and up.

The tragic result is that the *real* purchasing power of the average wage and salary worker has actually *declined* in the past three years. In contrast, during the successful 1960–1965 period, the average worker's real purchasing power rose more than ten per cent.

Nor does the spiral of inflation affect only our national scene. It may be even more dangerous in international affairs. The dollar is an essential medium of international exchange, and the free world has come to depend on the dollar as the foundation of its economy. Now its faith in the dollar is uneasy—as other countries doubt not so much our *capacity* to keep our dollar strong as our *will* and determination to do so.

This poses perhaps the most serious single financial threat that the United States faces today. The erosion of confidence in the American dollar could precipitate a world-wide financial crisis. At the least, the growth in world trade that is fundamental to world prosperity would be destroyed. At the worst, such a crisis quite possibly could turn us back on the dread road to the depression, the stagnation, and the mass unemployment of the 1930s.

The price of our failure to run our affairs properly thus becomes starkly plain. It would not afflict us alone. It would shadow the lives of all peoples in the world, including those whom we are striving most to help.

And so we face the full paradox: our highest prosperity—at a time of clear and present danger of economic failure.

The root causes of our trouble are not mysterious.

We are overspending. And we are undertaxing.

By the refusal so far to control expenditures and to raise taxes—and the consequent creation of huge deficits—the national government has been pumping money into the economy faster than the economy can absorb it.

We have been mounting a full-scale war overseas. At the same time, we have been pressing multiple attacks on poverty at home. On *neither* of these two fronts can we see or pretend great success. And on *both* of these fronts, we have not been willing to face up to the bill.

Whenever the national economy idles along at something less than its full capacity to produce, it is appropriate for the federal government to stimulate it with easy money and increased spending. As money is added, the people's capacity to buy increases, and the demand for goods and services goes up. This sparks the economy—and the rising output, keeping pace with the additional demand, gradually raises the economy toward its full capacity without pushing up prices.

This is essentially what happened in the 1960–64 period. And this accounts for the fact that the average inflation rate remained at a manageable 1.2 per cent per year, while the real purchasing power of the average worker was climbing steadily.

But in 1965, our national government chose to ignore one of the most fundamental facts of economics: any major war immediately moves the economy to its full capacity—and beyond—if civilian buying power is not curtailed by a tax increase.

Then, the whole economic picture changes. Then, if heavy deficit spending continues, demand goes on rising, but output cannot rise fast enough to meet it. Because output does not keep pace, demand bids up the price of goods and services, and therefore the dollar buys less. Thus grow the pressures of inflation—sped by the quickening wage-price spiral, and certain to get worse and worse unless firmly checked.

All this we have failed—or refused—to recognize.

In 1965, the escalation of the war in Vietnam moved the economy almost immediately into full output. In that same year, the Administration launched its war on poverty. Expenditures on the war in Vietnam have gone toward *$30* billion a year. Expenditures on the war on poverty have gone to nearly *$28* billion—about triple the figure for 1960.

The natural increases in national income financed part of this extraordinary rise of expenditures. But the rest of it has been paid for by deficit financing—at the staggering sum of more than $20 billion this year.

There was an immediate, obvious, and imperative need for a tax increase to cover this new spending and prevent inflation.

The Administration ignored this need for two years. Belatedly—long after the problem had become critical—it did move for a tax increase. But it has not yet been able to put it into law.

Both times, the Administration was at fault. Both times mark grave failures of leadership.

The final result is the inflation now endangering the economic gains and hopes of our people—and the world-wide financial structure.

The perils of inflation thus strike out in all directions and affect all endeavors. Specifically, they invade the four great areas of economic concern before us today. These are:

How to meet the urgent needs of our poor and our cities.

How to end our deficits in international payments and maintain a stable international financial system.

How to assure the strength of our national defenses and meet essential political and military obligations overseas.

How to maintain national prosperity without letting inflation race out of control.

The answers, of course, are not too difficult to define. They are somewhat harder, however, to accomplish.

Certainly the most essential measures are: to set hard priorities on our spending, to stick firmly to them, and to increase income taxes by at least the 10 percent proposed by the Administration.

This should have been passed two years ago. It should be passed now. Without it, we will be running a deficit even larger than this year's record $20 billion deficit.

We *can* do everything that we must do and much of what we want to do. But we cannot necessarily do it all at once.

This is true at home and in the world.

There is no doubt that we *can* sensibly and fully meet the demands of world leadership.

We *can* meet our political commitments in the world and our social needs within the nation.

We *can* stimulate in other areas of the world the economic growth so necessary to ease human suffering and lead toward a life of freedom and hope, stability and dignity.

Yet to *do* these things, we have to *be* certain things.

We have to be purposeful and compassionate. We have to *care* about the lives of our poor and the rebuilding of our cities. And we have to care *enough* to make the sacrifices that alone can bring an end to the despair and division, the want and need, that we see all around us.

We have to be responsible and disciplined and courageous—at the same time—in all the political and economic decisions we make. We cannot at *every* instant give *every*

group *every* thing it wants. For this could only mean, in economic terms, a spell of uncontrolled boom—to be followed by a shattering break-down. And it cannot be said too often or too bluntly that the way to meet our fiscal and social problems at home will determine our ability to fill the role of leadership in the free world.

The stress and strain of these international problems follow—directly and fatefully—from inflation at home. This inflation reduces our exports—by making our goods more expensive and less competitive with goods made elsewhere. At the same time, it encourages imports. The result is a shrinking balance of trade.

A less favorable balance of trade inevitably lessens our ability to finance what we are trying to do around the world. This includes: economic aid, military assistance, and private investment.

We still have a trade surplus. But it does not cover all that we must do overseas. And the result is a balance-of-payments deficit that becomes increasingly ominous.

As this threat grows, there inexorably follows a loss of confidence in the stability of the dollar. As all those overseas who own dollars see their buying power fall off, they sell these dollars for gold. And the result is obvious: our gold stock today is less than half what it was when this trend began.

We urgently need a program of action that can restore confidence in our dollar and check our inflation. This program means action on five broad fronts.

1. We can and must halt the habitual rise in public spending—with a rigorous review of the priorities controlling federal programs, eliminating the obsolete and the overlapping. There is no such thing as a budget of $186 billion dollars that does not permit cutbacks or deferrals in certain non-essential areas. The holding back or actual reduction of programs of lower priorities—such obvious spheres as deferrable public works—can make possible new action to meet the problems of poverty and the cities. And within government, this control and this direction must start from the White House.

2. We must enact a temporary increase in income taxes at least as large as the 10% across-the-board surcharge suggested by the Administration. This—combined with restraint on spending—could cut the deficit from $20 billion plus to a manageable $5 billion to $8 billion.

3. We must review U.S. commitments around the world. We can find ways to afford what we must do. But the record of our balance of payments deficits shows that we cannot do all we might like. Here, too, we must set firm priorities.

4. We must avoid further controls and restrictions, both domestically and internationally, and work to get rid of the "temporary" controls we have now. These direct controls deal only with surface manifestations of basic problems. And there is genuine danger that additional direct controls on our part would bring retaliation from other nations and a downward spiral of trade and investment.

5. We can and we must provide incentives and conditions to attract private capital into such areas as urban redevelopment, where public capital alone cannot possibly carry the burden. For the potential power outside our governmental structure—whether to raise capital or to provide jobs—is many times greater than this capacity within government.

Our resolute action along all these lines will do much more than strengthen the dollar. It will strengthen America . . . the hope of our people . . . and our role in the world.

Once we begin to act with this purpose and understanding and courage, we can bring to bear on the problems before us our tremendous potential for economic growth.

The natural growth of the American economy under present conditions—expanding real output by 4.5% each year—is such that the same rate of taxation produces each year at least $10 billion more than the previous year. It does not take long for this fiscal dividend or "growth bonus" to begin to make extraordinary achievements possible. So the matter of responsible leadership, clearly assigning priorities, really is a matter of how to *use* the growth bonus most effectively to meet our needs and to spur more growth. And our current troubles—as we confront the combined demands of foreign war and domestic poverty—follow from our spending all of this growth bonus and a great deal more besides.

Yet creative leadership and responsible management can encourage an even greater growth rate. For we may be standing, in fact, on the threshhold of a time of tremendous new growth. If properly channeled and used, this new growth could solve our problems on a scale now beyond imagination.

We have the potential to increase our total production by 25% in just the next five years and by 55% within a decade. By 1972 our gross national product in terms of current dollars will be over one trillion, and over 1.5 trillion by a decade from now. With such a rate over this coming decade, more than 7 out of every 10 families will have annual incomes with a real purchasing power of at least $6,000, and one-half of all American families—as distinguished from only one quarter of them today—would have incomes exceeding $10,000 per year.

Our huge investment in education, now running about $50 billion a year, is beginning to pay great rewards. Spending on research and development stands at $25 billion this year—four times the 1955 total—and it is constantly producing new ideas and products. Our economy generates huge savings for investment: this year we shall invest some $120 billion—a sum greater than the gross national product of the United Kingdom or West Germany or Japan.

If we add this potential thrust to the already predictable growth in government revenues—on top of our temporary use of a tax increase—we would have a true capacity to meet all great matters before us in an orderly and creative way. And if we act in this way—and keep our priorities firm—we could be able, in the relatively near future, to rescind the income tax surcharge.

It is important to note, at the same time, that the possibility of ending the fighting in Vietnam makes even more urgent the rational re-ordering of our financial affairs. For this most longed-for day of peace will also signal the start of a period of important economic adjustment, as the nation moves away from the extremes of war production.

This coming transition will be the time for us to give the lie to the false Communist fantasy that our free economy requires a war-basis for its prospering. To prove the contrary—and to show the resourcefulness of free enterprise—we must begin orderly planning now. We must plan ahead *now* for the conversion of our industrial production and the release of our great economic potentials to meet the vast needs of our society. We must take all steps to guard against any sudden surge in unemployment. And we must assure that our veterans return to an economy already geared to give them the jobs and the opportunity that are their right.

We face, then, a special time of both decision and opportunity. It could be lost in only two ways. It could be wasted through economic ignorance. Or it could be wrecked by political cowardice.

If we avoid both these snares, we shall avoid all the follies that could follow from them.

I believe it is folly to imagine that so great a nation can *not* solve its problems *and* secure its defenses *and* pay its bills. We must not be snared into trying to make some false choice between *fiscal* stability *or social* stability. There is no such choice. To fail to achieve *either* is to invite catastrophe. Our free society demands *both*. And our national leadership must assure both.

It is folly to argue that the rebuilding of our cities, at a cost of many billions of dollars of private and public capital, is merely a false hope. It is quite the contrary: it is a true necessity and an urgent demand and a realizable goal. And to *stand aside* from this great task—by mourning its impossibility—is to stand aside from the future of America.

It is folly, too, to imagine that such a massive task can be met by blind increases in deficit spending. For this could only speed the inflation that would cancel every gain we reach for.

And it is—above all—folly to fear that the American people are incapable of the effort and the sacrifice that may be required of them.

They *will* accept sacrifices, demands, and taxes—*if* they have the clear assurances that they have a right to expect.

They have a right to know that the fiscal affairs of the nation are being run with responsibility and discipline.

They have a right to know that the taxes they pay are helping to build the American *city*—and not the American *bureaucracy*—of the future.

They have a right to know, in short, that whatever they give is truly helping to make of America a just society.

This is the historic business on our agenda—today.

And we must get it bravely and wisely done.

MOUNT CARBON DAM

Mr. DOMINICK. Mr. President, this morning I appeared before the Subcommittee on Flood Control—Rivers and Harbors, of the Committee on Public Works, to testify on behalf of S. 2169, the bill I introduced last year to authorize the Mount Carbon Dam.

I ask unanimous consent that the text of my remarks and the materials to which I referred be printed in the RECORD.

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

MOUNT CARBON DAM

(Statement of Senator PETER H. DOMINICK before the Subcommittee on Flood Control—Rivers and Harbors, Senate Committee on Public Works, May 22, 1968)

Mr. Chairman and Members of the Subcommittee, I am delighted to appear before the Subcommittee to testify on behalf of S. 2169, the bill which I introduced on July 25, 1967, to authorize the Mount Carbon Project for Colorado. It is my purpose this morning to outline some of the major considerations involved in this Project, and to bring to your attention the rationale underlying Colorado's decision to seek its authorization this year despite the present fiscal situation.

If authorized and constructed, Mount Carbon Dam would be located on Bear Creek, a tributary of the South Platte River, having its confluence with the South Platte in southwest Metropolitan Denver.

Another upstream tributary of the South Platte River, Plum Creek, was the prime source of huge quantities of water plowing through upstream communities, across the middle of Denver, and on into some of our rural areas in the disastrous flood of June, 1965. Thirteen Coloradoans died and property damage exceeded $500 million. As you know, plans for Chatfield dam were subsequently reactivated and that Project is underway at the confluence of Plum Creek and the South Platte River just south of Denver.

Cherry Creek Dam, constructed years ago

on a third tributary of the South Platte near the southeastern edge of Denver at a cost of $14.8 million, was credited with preventing over $130 million in additional damage during the 1965 flood.

What I want to emphasize this morning, however, is that even with the addition of Chatfield Dam over 30% of the drainage area above the downstream limits of Metropolitan Denver continues to be uncontrolled, and what may well prove to be one of the most treacherous and destructive waterways in the country remains unchecked.

Bear Creek is so unusually unique in its geographic characteristics coupled with its proximity to such a heavily populated area that I suspect it is unlike any tributary previously considered by this Subcommittee.

Ninety per cent of the tributary basin lies in the rugged mountainous terrain of the Rocky Mountain range. Bear Creek has its headwaters at Summit Lake on Mount Evans at an elevation of 14,260 feet above sea level. In the 34 miles the water travels to the point where it leaves the mountains outside Metropolitan Denver, it drops 8,520 feet. Some portions of the streambed are so steep the water plummets 500 feet in a single mile.

In my judgment Bear Creek can be accurately described as a funnel tilted on edge and aimed directly at the people of Metropolitan Denver sitting at the bottom. Its steep terrain makes it particularly susceptible to flash flooding with rapid collection and concentration of water. The resultant high velocity produces a wild torrent of water and debris hurling down the canyon.

Once out of the mountains, Bear Creek heads for its meeting with the South Platte-River inside Metropolitan Denver. In doing so it passes within steps of homes, schools, several public facilities, and a shopping center. Its confluence with the South Platte is only a matter of a few hundred yards from one of the largest, newest, and most modern shopping centers in the West. These lower reaches of the Bear Creek basin have been characterized by rapid residential and commercial development. Population in this vicinity is projected to increase more than five-fold in the next three decades, while with the attendant influx of capital investment, the Corps of Engineers calculates the average annual flood damages to multiple by four over the same period.

Mr. Chairman, Bear Creek has a tragic history of flooding which entailed both the loss of life and heavy property damage. For the years records are available, there have been 22 floods in the lower Bear Creek Valley. Forty-five people lost their life as a result. The largest and most destructive of these floods occurred in 1938 when six people were killed. More recently, flooding has taken place in 1957, 1958, and 1965.

Quite understandably, the citizens of our state are genuinely alarmed about the continued existence of such dangerous conditions. I had the good fortune to be able to participate in the first public meeting with residents of the Bear Valley regarding Mount Carbon Dam. Voluntary citizens groups such as "Tame the Bear—Build Mount Carbon" and the "South Platte Area Redevelopment Council" have been formed and have made significant contributions in alerting the people to the remaining river hazards and what might be expected once these hazards are overcome. In a continuous effort to bring their proposals to fruition, I have met several times with representatives of the Corps of Engineers in Denver. To date I have not received any objections to the Project from those living in the vicinity.

It is with this background that we in Colorado are working together in a united effort to expedite the recommendations of the Corps of Engineers to meet the threat of Bear Creek.

Some measure of the seriousness with which we view the situation may be taken from the recent resolution of the General Assembly of the State of Colorado. Our state legislature strongly recommends approval of the Mount Carbon Project in this session of Congress as well as an initial appropriation in the 1968 Omnibus Bill. I would like to present House Joint Resolution No. 1019 to the Subcommittee and respectfully request that it be printed in the record at the close of my remarks.

Englewood, Colorado, is situated along the eastern bank of the South Platte River at the point in south suburban Denver where Bear Creek dumps into the South Platte. On April 1 of this year the City Council of Englewood adopted a resolution endorsing and encouraging the construction of Mount Carbon Dam. I ask that it also be included in the RECORD at the close of my remarks.

Bear Creek runs through the city of Sheridan, a suburban community on the western bank of the South Platte River directly across from Englewood. Several weeks ago I received a letter from Jan Rosenbach, Mayor of Sheridan, in which she stated:

"Any delay in this project might well be too late. The people in this community are just beginning to come back after the flood of 1965. At this time there were many homes flooded out and bridges were lost. The city hall of Sheridan was flooded out and the contents damaged beyond repair. We still remember the mud we scraped, many of our records are mud and water damaged and stand on our file shelves as a reminder of the miserable conditions that exist after a flood. Many of our elder citizens have not been able to come back. It would take pages to tell of the horror of floods. We urge the passage of the bill for Mount Carbon Dam."

The proposed location of Bear Creek Dam is approximately eight miles upstream from its confluence with the South Platte in metropolitan Denver. The recommendations of the Corps last year on which S. 2169 is based have been modifid somewhat to provide for some suggestions which have subsequently been made. As modified, the Chief of Engineers has recommended a multiple-purpose dam which would have a storage capacity of 74,750 acre-feet and an estimated first cost of $32,617,000. The federal share would be $30,706,000 while the non-federal share would be $1,911,000. The benefit-cost ratio is 2.3, a figure which reflects the estimated annual benefits of about $3,277,000, including $2,412,000 for flood control and $815,000 for recreation and fish and wildlife enhancement. I would like to stress, however, that the first cost of Mount Carbon may be considerably less since the $32.6 million estimate contains a large contingency item. At the suggestion of the Division Engineer, contingent funds were added in recognition of the possibility that more advanced planning studies and detailed subsurface explorations might reveal that foundation conditions would be unsuitable to the presently contemplated design. If so, some spillway modification and additional foundation treatment may be necessary. Unless such conditions are found, however, perhaps as much as $7.8 million may be deleted from the estimated first cost. The recommended project, as a result, is based on the maximum structure anticipated should adverse foundation conditions arise.

Mr. Chairman, Mount Carbon Dam is an essential element in a balanced flood control plan for this area of my state. Without it, Metropolitan Denverites remain in real peril. Extensive redevelopment plans for the South Platte River Valley can go forward only under a dark cloud of probable destruction by crushing waters.

These are the factors which have brought about such a unanimity and dedication among our congressional delegation to seek authorization this year of the Mount Carbon Project. I understand the recommendations of the Chief of the Corps of Engineers are now pending before the Bureau of the Budget. I urge this Subcommittee to seek early approval by the Bureau of the Budget and act favorably on the Corps recommendations in order that more advanced site investigation and design can get underway.

HOUSE JOINT RESOLUTION 1019

Whereas, The United States Army Corps of Engineers has recommended the construction of a flood control project at the Mount Carbon site on Bear Creek, east of the Town of Morrison, in the County of Jefferson, and the State of Colorado; and

Whereas, There have been twenty-two floods on Bear Creek between the Town of Morrison and the South Platte River in the Denver Metropolitan area since 1900, the most recent of which have been in 1957, 1958, and 1965; and

Whereas, Said floods have caused forty-five deaths and massive destruction to property; and

Whereas, Every heavy snowfall and heavy rain causes great anxiety to many thousands of residents and businessmen in the Bear Creek flood plain; and

Whereas, a comprehensive plan of flood control on the South Platte River would require the construction of the Mount Carbon project to complement the existing Cherry Creek Reservoir and the current construction of the Chatfield Reservoir, for the protection of the Metropolitan Denver area and downstream; now, therefore,

Be It Resolved by the House of Representatives of the Forty-sixth General Assembly of the State of Colorado, the Senate concurring herein:

That this General Assembly, on behalf of the people of this state, strongly recommends the construction of the Mount Carbon flood control project in Jefferson County, east of Morrison, Colorado, and requests immediate approval of this project in this session of Congress and an initial appropriation in the 1868 Omnibus Bill.

Be It Further Resolved, That copies of this Resolution be sent to each of the Board of Engineers for Rivers and Harbors, Washington, D.C., and to the members of Congress from the State of Colorado.

JOHN D. VANDERHOOF,
Speaker of the House of Representatives.
HENRY C. KIMBROUGH,
Chief Clerk of the House of Representatives.
MARK A. HOGAN,
President of the Senate.
COMFORT W. SHAW,
Secretary of the Senate.

RESOLUTION 17, SERIES OF 1968

Resolution endorsing in principle the Mount Carbon dam

Whereas, a flood problem of serious proportions exists in the metropolitan reaches of the Bear Creek Valley, and that the effects of Bear Creek floods on the South Platte River through metropolitan Denver and the rural areas downstream from Denver represent a serious flood threat to the South Platte River Valley, and

Whereas, current metropolitan growth trends and projected levels and patterns of future growth indicated substantial increases in future flood hazard and economic damage potentials, and

Whereas, the existing flood threat is a serious deterrent to the economic stability and orderly growth of the metropolitan community and prevents fulfillment of plans to arrest deterioration and promote redevelopment of the South Platte River Valley in metropolitan Denver, and

Whereas, the City of Englewood stands to lose considerable in the event of a flood arising from the Bear Creek Valley,

Now, therefore, be it resolved that the City Council of the City of Englewood, Colorado, does hereby endorse and encourage the construction of the Mount Carbon Dam and Reservoir on Bear Creek, a tributary of the South

Platte River in Colorado, for flood control, general recreation, and fish and wildlife recreation generally in accordance with the plans of the District Engineer, and with such modification thereof as in the discretion of the Chief of Engineers may be advisable.

Adopted and approved this 1st day of April, 1968.

ELMER E. SCHWAB,
Mayor.

Attest:

STEPHEN A. LYON,
City Clerk-Treasurer.

POLITICAL AWARENESS AND INDEPENDENCE OF YOUNGER AMERICANS

Mr. BAYH. Mr. President, a very interesting survey conducted recently by George Gallup, Jr., disclosed that younger Americans in their twenties are characterized by considerable political awareness and independence. The results of this poll indicated that some 40 percent of this group of potential voters, which numbers around 24 million, considered themselves to be independent, and about half said they would not follow their parents political leanings in casting their votes.

Unfortunately, the poll also confirmed that the percentage of this group who are registered is lower than other age groups. While this may be explained in part by the greater mobility of persons in their twenties and by voting difficulties encountered, by college students and others who have temporary residences away from home, under present absentee registration and voting laws, I think it also reflects the fact that denial of the ballot to most persons under 21 may also discourage or hinder some young men and women from beginning active political participation at the time they complete secondary school. Evidence presented to the Subcommittee on Constitutional Amendments during its recent hearings on Senate Joint Resolution 8, Senator MANSFIELD's proposed amendment to extend the right to vote to citizens 18 years of age or older, seems to indicate that the political activity of those in their twenties would be increased if this amendment were adopted.

Mr. President, I ask unanimous consent that the article which appeared in the Washington Post on May 19 analyzing the results of this recent Gallup poll be printed in the RECORD.

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

AMERICANS IN THEIR TWENTIES PROVE TO BE POLITICALLY HIP

(Richard L. Lyons)

A special Gallup Poll shows that Americans in their 20's are politically interested and independent, "more hip than hippie," a rich prize to be fought over by presidential candidates.

The survey shows that among potential voters who came of age since 1960 Sen. Eugene J. McCarthy has the edge over both Republican hopefuls, Richard M. Nixon and Nelson A. Rockefeller. And both Nixon and Rockefeller are favored by young people over the other Democratic candidates, Sen. Robert F. Kennedy and Vice President Humphrey. The polling was completed the first week of May—before the Indiana or Nebraska primaries.

Gallup found that 40 per cent of Americans in their 20s consider themselves independents, a much higher rate than among older voters. Those who declared themselves were a little more than 3 to 2 Democratic. Nearly half said they planned to vote differently from their parents.

Although this group consists of 24 million potential voters, they vote less than their elders. In 1964, 53 per cent of them voted, compared to 65 per cent for older voters. Only 48 per cent are now registered, in part because of their mobility and the barrier of voter registration laws. This suggests the value of major registration drives among these groups.

George Gallup Jr. said this group in its 20s "is a crucial battleground for both parties" and that it "behooves a candidate to win their support."

They are less interested in party labels than their elders, said Gallup, and can be wooed by either party.

Gallup found the under-30s have a genuine interest in politics, take a constructive (rather than alienated or passive) approach to problems and are in the "mainstream of political opinion. Talk of a maverick generation must be considered as nonsense."

PRESENTATION OF EMMA C. McKINNEY MEMORIAL AWARD TO MRS. NORA LAWRENCE SMITH, ASHBURN, GA.

Mr. RUSSELL. Mr. President, last Saturday, the National Newspaper Association, at its annual convention in Los Angeles, recognized one of Georgia's most distinguished weekly publishers, Mrs. Nora Lawrence Smith, of Ashburn.

She was presented with the Emma C. McKinney Memorial Award, which is given each year to an active working newspaper woman associated with a nonmetropolitan weekly or daily, in recognition of distinguished service or contributions to her community and profession.

Georgians have recognized the outstanding public service of "Miss Nora," as she is known throughout the State, for many years, and we take particular pride in the knowledge that she has been accorded this national tribute. As the editor and publisher of the Wiregrass Farmer, she has worked tirelessly in the interest of our beloved State and of her community, as well. As her friend for more than 50 years, I extend to her my warmest congratulations for this well-deserved honor.

I would add, Mr. President, that five Georgia newspapers received first place awards in the National Better Newspaper Contest at this convention, and a number of others were recognized with second- and third-place honors, as well as honorable mention. Most of these newspapers were community weeklies and small dailies, and no other State having a population comparable to Georgia's had as many newspapers recognized. These awards are, indeed, a fine testimony to the outstanding quality of the profession of community journalism in the State of Georgia.

Mr. President, I ask unanimous consent that the release announcing the selection of Mrs. Nora Lawrence Smith as the recipient of the Emma C. McKinney Award be printed in the RECORD.

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

LOS ANGELES.—Mrs. Nora Lawrence Smith, 82-year-old publisher of the weekly Ashburn (Ga.) Wiregrass Farmer and Stockman, has received the Emma C. McKinney Award "in tribute to a newspaper publisher who has selflessly served her community and her state and who has exemplified the highest ideals of the newspaper industry."

The presentation was made during the National Newspaper Association's 83rd annual convention here.

The award was established in 1966 by the McKinney family and the Hillsboro (Ore.) Argus in memory of the late Mrs. Emma C. McKinney who was associated with the newspaper for 70 years.

Mrs. Smith, known as "Miss Nora" to fellow publishers in Georgia, has been active as a newspaper publisher for more than 50 years.

The first trophy ever presented by the Georgia Press Association, the Sutlive Trophy, went to Miss Nora for her promotion of a livestock program started in 1920.

Miss Nora is credited with starting the first highway beautification program in the state of Georgia and with getting the first highway in the state paved.

An active supporter of education and community improvement programs, Miss Nora recently contributed $10,000 to the Georgia Press Educational Foundation.

The award was presented by Walter V. McKinney, grandson of Mrs. McKinney and general manager of the Argus.

COLUMNIST SEES SICK MINDS BEHIND GUNS

Mr. DODD. Mr. President, there is a wide variety of opinion on just what a firearm is, what it is for, and the need for it in our society.

I believe it is a healthy thing, this difference of opinion. It is a part of our way of life that there should be differences, that everyone should not agree on everything.

A firearm is symbolic of different things to different people. Some see in it sport, others home protection, others war, and still others a heritage that has come down to us from frontier times.

Mary McGrath, a columnist for the Miami, Fla., Herald, has still another way to view a firearm. In the May 9, 1968, edition of the Herald she put it this way:

> However, unlike the artist's brush or the pen, its use can never be creative, only destructive.

Even a cursory glance at the current literature in the gun magazines tends to confirm, at least in part, Miss McGrath's reaction to firearms. All, or nearly all, of the articles in "hunting" magazines have to do with violence, the killing, or smashing power of this gun versus that "plinking" English sparrows out of cottonwood trees, killing varmints, and so forth.

Miss McGrath's point of view, which I am certain is shared by many other Americans, is worth sharing.

I commend it to the attention of my colleagues and ask unanimous consent, Mr. President, that it be printed in full in the RECORD at this point.

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

SICK MINDS BEHIND THE GUNS—MISUSE A THREAT TO OUR SOCIETY

(By Mary McGrath)

No matter what the National Rifle Association may say, understanding a weapon is no proof against the misuse of that weapon.

If there is one thing sure about those who have perpetrated the most dastardly assassinations of our time it is that they had complete mastery over their guns. It was their minds that were out of control.

Even the NRA does not maintain that it can read the minds of every man, woman and child who professes to want to possess, for sport, what is without argument a weapon of death.

According to those who speak for the NRA, true sportsmen, knowing the dangers of a gun, are totally opposed to the use of weapons for other than sportslike reasons.

If this is true, and they carry their thesis to a logical conclusion, why is not the National Rifle Association in the forefront of those fighting to outlaw the use of weapons in war as an accepted method of defending a principle or settling a difference?

Why are they so gung-ho for the gun as a weapon of self-defense, when the admitted purpose of the weapon is not truly to defend but to wrest the offensive away from the offender?

While it may be true that there is some illusion of sport in an activity that pits a hidden, disguised, and armed hunter against an unsuspecting, unoffending and unprotected animal, it is hard to see what this defense of an alleged sport has to do with the open and general sale of firearms to persons who cannot prove what is in their minds by what they put on their applications for permits.

Perhaps the right answer lies not in the licensing of guns to their owners but the licensing of gunmakers in their sales, so that they ultimately control to whom they sell.

In this way the man who makes the weapon of murder fun and profit could be held liable for his own careless judgment, just as the bartender can in some states be held at least partially liable for the activities of the drunk to whom he sells that last drink over and above his obvious capacity.

A gun, like a pen or an artist's brush, has no intrinsic value of itself. Untended, it can do nothing. It is merely a tool in the hand directed by the mind in its ultimate expression.

However, unlike the artist's brush or the pen, its use can never be creative, but only destructive.

It is specious to argue that man would be allowed to destroy what nature will ultimately destroy. The National Rifle Association may think of this only in connection with rabbits, deer and squirrels.

Some of our most deadly marksmen have used it for people!

WHO AND WHEN IS A CANDIDATE?

Mr. METCALF. Mr. President, I am not running for reelection this year. So, as far as I am concerned, I am not a candidate for public office. But one Federal agency thinks I am. It is the Internal Revenue Service, which defines a "political candidate" as "any political figure who receives or has received political funds, whether or not he has announced his candidacy for nomination or election or reelection to any elective public office"—IRS Bulletin No. 1968–17, April 22, 1968.

I am not silly enough to think that anyone is going to be trotting around offering campaign contributions in a year when I am not seeking reelection. I have enough trouble getting campaign funds when I am. But the point is that the IRS has its eye on campaign money. It could not care less whether or when or how I "declare" myself a candidate for office.

While I am not a candidate for office this year, others are. They must wonder who—perhaps when—is a candidate. It is not easy to find out. I have been looking through statutes and the statements of various Federal agencies for an answer, and I can report that there is less than complete agreement on the point over in the executive branch.

In the Federal Corrupt Practices Act, a congressional "candidate" is somebody whose name turns up—apparently including write-ins—on the ballot on election day. Specifically, he is "an individual whose name is presented at an election for election as Senator or Representative in, or Resident Commissioner to, the Congress of the United States, whether or not such individual is elected"—2 U.S.C. section 241. But the legal duties of the "candidate" extend far back into the past. He must report all contributions and expenditures "in aid or support of his candidacy for election," even if they were made 50 years ago—2 U.S.C. section 246. Under the Corrupt Practices Act, it is absolutely irrelevant whether or when somebody "declares himself" a candidate for office.

For the Federal Communications Commission, on the other hand, a "candidate" is someone who calls himself a candidate. A "declaration of candidacy" makes all the difference. The FCC has ruled that the term "legally qualified candidate," as used in section 315 of the Communications Act, means a "person who has publicly announced that he is a candidate for nomination"—FCC 68–79, 11165, January 24, 1968. The result of this ruling is that "equal time" requirements, governing radio and television time, are enforced only in situations where there are publicly declared candidates for office. In this year of the "noncandidate" the ruling is obviously unfair.

In the past year the Civil Service Commission has weighed in with its own interpretation of what it means to be a candidate. At pages 5882–5887 of the March 8, 1968, CONGRESSIONAL RECORD, I discussed an exchange of correspondence with the CSC on the case of a Montana highway official who had, from all the evidence, violated the Hatch Act by engaging in illegal political activity. In a letter dated June 19, 1967, Chairman Macy stated his conclusion that there had been no violation of the law. He went on to say that "the case had to be developed on the theory of taking part in a political campaign," and he assigned importance to the fact that the activity in question had taken place before Representative BATTIN and I had filed as candidates for re-election in 1966. The fact is that the Congressman and I, as incumbents, were "candidates" by the IRS definition, and that we were bound by all the legal requirements of the Corrupt Practices Act even though we had not yet filed. The Civil Service Commission has chosen to search for "declarations of candidacy" to find out when candidates are really candidates. Apparently the prohibitions of the Hatch Act apply less stringently, or do not apply at all, at times when there exist no publicly declared candidates for office.

Mr. President, I have been in Washington too long to expect that governmental administration can proceed according to neat canons of logic. But I think that we could use a little more logic on this matter of "candidates" and "declarations of candidacy." Maybe a bureaucratic round-table discussion, with all the different agencies represented, could generate a little more order. At the least, it is worth asking whether the CSC, given its rigid mandate to prohibit political activity by civil servants, shouldn't take lessons from IRS and the Corrupt Practices Act rather than from the FCC.

SUSPENSION OF SECTION 315(A) OF COMMUNICATIONS ACT OF 1934

Mr. HARTKE. Mr. President, Dr. Frank Stanton, president of the Columbia Broadcasting System, is widely known for his compassion and desire to serve the American viewing public with all the tools and electronic devices which are at his disposal. However, because Congress thus far has not sought to repeal, or at least temporarily suspend, section 315(a) of the Communications Act of 1934. Dr. Stanton, and his counterparts at NBC and ABC are unable to bring to the more than 100 million persons, who will be eligible to vote in the fall, the candidates seeking the two most important public offices in the land.

Recently, Dr. Stanton addressed the general conference of CBS Television Affiliates in Hollywood, Calif., on the restrictive handicaps created by section 315 and the need for its repeal. I wish to associate myself with those remarks. I am extremely hopeful that Congress, after much delay, will see the necessity of repealing, or at least suspending, section 315(a) for the duration of the 1968 presidential and vice-presidential campaign.

I ask unanimous consent that Dr. Stanton's remarks be printed in the RECORD.

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

THE GENERAL CONFERENCE OF CBS TELEVISION NETWORK AFFILIATES

(Remarks of Frank Stanton, President, Columbia Broadcasting System, Inc., CBS Studio Center, North Hollywood, Calif., May 14, 1968)

It is always a pleasure to be in the company of friends. We have come a long way together, you and I, and few things are as good for the spirit as the comradeship of those who have stood with you in hard times and good times. But mindful as I am of the past we have shared together, my concern is with tomorrow.

We have come a long way, too, in broadcast journalism. Not all of us were there for the start, but we have been in on the important beginnings. We must never forget that Americans rely more on television than on any other medium for what they know of the world around them. Our offices and our reception rooms are studded with testimonials to what we have accomplished. One might be forgiven a certain immodesty in thinking that the broadcast media while in our charge have come to a maturity crowned not only with the plaudits of their peers but also with the favor of their beholders. One

might be tempted, indeed, to rest on both his laurels and his oars.

I hope we will not. For while we have come a long way, we have still a long way to go. Increasingly, for the broadcast journalist, I fear it will be uphill. I feel a tightening of the ring around our already proscribed broadcast freedoms, and I think it is time to take their measure.

I believe the broadcasters of this country must declare themselves once and for all time the legitimate inheritors of the First Amendment. I believe we must move with both vigor and dispatch to strike from our shields the one bar sinister we have borne from the beginning, and to reject the other restrictions of second-class citizenship that many would seek to impose upon us. Let me name but a few:

In the state of Oklahoma broadcasters are being called to account for their programming performance by a self-appointed two-man task force from the Federal Communications Commission.

In Chicago the concept of investigative reporting has been put under challenge by a Committee of the Congress.

The so-called Fairness Doctrine—its own legitimacy a matter of dispute—is used against us on both the editorial and commercial sides of our medium.

In certain areas of the country even our right to affiliate—the first and basic step in program choice made in the network-affiliate relationship—has come under question.

On one hand we find those who would tell us what to say about the world, and on the other those who would have us stand mute. It has been but two years since I felt compelled to make public defense of CBS News coverage of the Vietnam war. I said at the time that "the living room is no less involved in this conflict because of its distance from the combat area." The issue today turns not so much on Vietnam as on the crises in our cities. The distance from the living room has been greatly foreshortened, and the intensity of the outcry has risen in proportion. But what I said then is still valid today: "We see it as our duty to bring the face of this war . . . to all the people so that they can witness it and understand it."

There is growing concern, even beyond broadcasting, that the First Amendment itself could ill withstand the "reluctance to know" that we witness today. Indeed, there are many who feel that the nine other tenets of the Bill of Rights might not survive a vote tomorrow. We who would seek its protection must rally to preserve its freedoms—freedoms, ironically, to which we ourselves do not yet have clear title.

We must begin with Section 315, the law that holds that any candidate for public office, no matter how obscure and no matter how frivolous, has equal claim with all other candidates to broadcast time in political campaigns. Section 315 has been with us in one incarnation or another since 1927. It has been under challenge for just that long, and has yielded only twice: in 1959, when broadcasters secured relief for *bona fide* newscasts, news interviews, news events and certain news documentaries, and in 1960, when we were permitted to present what came to be called the Great Debates.

I need not recount for this assembly the reasons why Section 315 should be set aside; we have been over the ground before. I spoke of 315 at your First General Conference 13 years ago, again the next year at your Second General Conference, again at your Fifth in 1959, and again at your Eighth in 1962. Our arguments have been valid, but often they have been voiced in vain.

I think we all recognize that the gut issue involved is whether the broadcaster is to be entitled to exercise the same journalistic judgment that has from the founding of the r public been not only the privilege but the duty of our ink-stained colleagues. The answer which has come back again and again is that we are not ready. To which I say, if we are not now, we shall never be. I fear that if we do not win now, we may never win. And if we lose, so will America.

We who care about the political process in this country stand now at a unique confluence of need and opportunity. As I wrote the chairmen of the House and Senate Commerce Committees on April 1, the decision of President Johnson not to seek nor to accept the nomination of his party has given "a new urgency to the need for prompt suspension of Section 315 [in order that] the views of leading contenders for the nominations of the major parties be placed fully befor the public during the primary campaigns, and that such parties' nominees have the fullest opportunity to present their views during the general election campaign."

That was six weeks ago. We have no suspension. We will have none in time for the primaries. There is still hope that suspension could come in time for debates during the pre-convention period, but any optimism I hold on that score is based more on the arithmetic of time than a conviction of our chances. It *could* happen. I hope it *will* happen. But I shall not hold my breath, nor do I recommend that you do.

Then what, realistically, are the chances that Congress will act at all? The House, including and especially the Interstate and Foreign Commerce Committee, is where our deepest concern lies. Some hold the view that new hearings will be necessary before that committee—although others, myself among them, believe that the record compiled in March by Chairman Staggers' Special Investigations Subcommittee provides a sufficient base for legislation without further hearings. In any event—and to put it mildly—there appears to be no great enthusiasm for action in the House. And without action on our part, I fear their lethargy will continue.

The Senate is a brighter side. Senator Pastore—who, you will recall, introduced and championed the joint resolution for suspension in 1960—has told us that he is optimistic about early legislation there, provided this is "the will" of the Commerce Committee. My own view is that with a little encouragement the Senate will take positive action.

The President is no longer a candidate and my guess is that he will neither resist nor encourage a suspension; I believe he will leave the matter up to Congress. The Vice President, on the other hand, I believe will be more than willing to engage in debates if he gets his party's nomination. Indeed, Mr. Humphrey went on record with Senator Pastore last week as saying, " . . . in 1960 I supported and voted for a suspension of Section 315 for the Presidential and Vice Presidential candidates. I would favor the passage of similar legislation this year."

And what about the other candidates whose fates and fortunes are on the line? I invite you to see and hear for yourself where they stand. CBS newsmen* asked Senators Kennedy and McCarthy, Mr. Nixon, Governors Reagan and Rockefeller, and Mr. Wallace whether they would be willing to participate in broadcast confrontations with their opponents:

INTERVIEW WITH RICHARD NIXON

"PLANTE. Mr. Nixon, what is your position on the possible suspension of the equal time provision of the Communications Act?

"NIXON. Well, I favored the suspension of the equal time provision in 1960, when that action by the Congress made possible the Kennedy-Nixon debates, and I favor the suspension of the equal time provision in 1968, so that the nominees of the two major parties may again participate in debates of the great issues."

INTERVIEW WITH SENATOR M'CARTHY

"SCHOUMACHER. Senator, would you say that you would favor or feel it important that the 315 section, equal-time section, be suspended to permit primary debates between——

"MCCARTHY. Oh, I think they—they ought just to repeal it. I've never—in the years I've been in Congress, they used to ask me about equal time and I never knew what they meant because I'd had no experience with it. And I think that it—it's one of those provisions that's impossible to administer and as a general rule when you get something that's—that's an administrative monstrosity it's best to repeal it. If not, of course, you suspend it at the time when it might come into effect."

INTERVIEW WITH GEORGE WALLACE

"CLEVELAND. Governor, what is your position on the possible suspension of the equal time provision of the Communications Act?

"WALLACE. Well, if they're talking about suspending the rule for the purpose of allowing the two national parties to debate and to eliminate a movement such as mine, of course I'd be against it. I look with very much concern about any suspension of a rule that gives equal time. Now I'm sure that the networks do not have to give equal time to some candidate throughout the nation who's qualified, say, in one or two states, and we do have some minor parties who have ballot position in one state and no more; two states and no more. They probably should have time in those states. But a movement such as mine, which is going to be on most all the ballots of the country, should be given equal time. So I'm against any movement that would make it possible to eliminate this movement. And I don't know what the purpose of it is. If they're trying to eliminate this third party movement from equal time, then I'm certainly against it."

INTERVIEW WITH GOVERNOR REAGAN

"SIMMONS. I've got three or four written questions here with regard to the FCC Section 315 regarding equal time for political candidates on television. I wonder if in your view Section 315 perhaps ought to be suspended during the remaining primaries in order to permit face-to-face debates between the major announced candidates.

"REAGAN. I wouldn't see anything wrong with that. I don't know all the technicalities involved, but I think that an overhaul, and a review preceding the overhaul, in the whole area of equal time and the rules pertaining to it could well be had. I remember my own experience with having to find substitutes for 'Death Valley Days' before I was even a declared candidate, while at the same time there was no restriction on my opponent continuing to have weekly press conferences. In one ruling they issued that it was part of his job, but it wasn't part of my job to continue on 'Death Valley Days.' I think that there've been—there are a great many things at fault in the interpretation of the equal-time rule.

"SIMMONS. In general terms do you think that 315 is a good idea, in that it gives exposure to minor candidates such as the Vegetarians' or Socialist-Labor party's nominees for President?

"REAGAN. Well, I'd want to—I'd want to see again the results of a review and some thinking applied to this. I can see that there has to be some protection for television and for the television viewer in that area because there's nothing to prevent a lot of people from becoming candidates who we know are not meaningful candidates and are not going to acquire any audience and could clutter things up pretty well. But I think, as I say, that there should be quite a review—part of the people in industry, part of the

* CBS News correspondent Bill Plante; CBS News correspondent David Schoumacher; Paul Cleveland, assistant to the bureau manager, CBS News, Atlanta, and Robert Simmons, staff correspondent, KNXT Los Angeles.

people in public life, government itself, as to what would be a proper answer."

INTERVIEW WITH SENATORS M'CARTHY AND KENNEDY

"SCHOUMACHER. Walter and Roger Mudd, this is David Schoumacher with Eugene McCarthy just up the block from you. There's been a difficulty, of course, in staging any kind of a debate. I wonder if, this time, if we could ask both men if they're willing to meet in the Nebraska Primary and hold a confrontation of some sort—a joint appearance.

"MCCARTHY. I don't know. Are you talking to me?

"SCHOUMACHER. Right, sir, we'll ask you first.

"MCCARTHY. Well, I don't know if you ought to raise that question here tonight. I, of course, have said that I was willing even in Indiana and I said I would in Nebraska, but . . . you know . . . we haven't even quite finished adding things up for tonight. I'm willing. Yes.

"SCHOUMACHER. Senator Kennedy . . .

"KENNEDY. Yes, I've always said I've been willing. I think that Vice President Humphrey is a candidate and I would hope that he would enter this effort as well. As Senator McCarthy knows, Vice President Humphrey has made statements and his backers and supporters have made statements that he's the frontrunner. Senator McCarthy feels that he's the frontrunner. I'm not making any predictions about where I am because I think that the only way I can do well is, obviously, take my candidacy to the people and do well in the campaign with people. But I think it would be very helpful for Vice President Humphrey to become actively involved in taking his campaign to the people themselves, because . . . so that the people can pass on it. I think this is something more than just political leaders and politicians. I think this has to have the support of the people themselves and I think that's what at least we're trying to do."

There you have it. Except for Governor Rockefeller—who says "Frankly, I have not had enough time to study it"—the candidates are willing.

But there is also some opposition to suspending 315. In all fairness there is another side, and its spokesman should be given an opportunity to be heard.

DR. GODDARD RESIGNS

Mr. NELSON. Mr. President, I read with deep regret in this morning's press that Dr. James Goddard has found it necessary, for personal reasons, to resign as Commissioner of the Food and Drug Administration. Since 1966 when Dr. Goddard was appointed as Commissioner he has worked with unfailing dedication toward the goal of insuring that every drug on the market be safe and effective. Keenly aware of the direct impact of the FDA on the health and safety of the American people, Dr. Goddard has turned FDA into an aggressive agency actively executing its regulatory functions.

The Food and Drug Commissioner is in a sensitive position. Charged with protecting the public interest, he is constantly exposed to the powerful pressures of an industry with an important stake in the decisions he makes. Which drugs will be marketed and what types of advertising will be permitted are delicate matters he deals with daily.

The Food and Drug Commissioner must be able to resist the pressures of the industry to allow the marketing of drugs before their safety and efficacy have been documented by substantial evidence. He must work diligently to insure that information disseminated to physicians be complete and truthful so that patients will not be exposed unnecessarily to risks of suffering or death because of premature or overuse of a drug.

Dr. Goddard has done an outstanding job in his 2 years as Commissioner. He was willing to take positions which brought upon him the criticism of the industry when he believed that his stands were in the public interest. Firms which violated provisions of the Food and Drug Act were prosecuted. Drugs which were shown to be dangerous were withdrawn from the market. The marketing of new drugs was postponed, often in the face of great industry pressure, if there were insufficient assurances of safety and efficacy.

We all know about the tragedy around the world caused by thalidomide. We know of the many needless deaths in our own country resulting from the drug chloramphenicol because it was overpromoted.

We can prevent such tragedies from recurring only if the new Commissioner shows the same willingness to do whatever is necessary to protect our consumers.

He must be a man who will continue the programs Dr. Goddard has initiated and who will follow the same policy of vigorous enforcement of the food and drug laws. He should thus be an individual who is familiar with FDA programs and operations.

I commend Dr. Goddard's recommendations that Dr. Herbert Ley, now Chief of the FDA's Bureau of Medicine be appointed to succeed him.

Dr. Ley has made a distinguished name for himself as head of this all-important section of the FDA. He is thoroughly conversant with and sympathetic to the fine programs begun by Dr. Goddard.

Already the screams of anguish over this recommendation have come from the drug industry. I am certain they would like to have the agency revert back to the sleepy days of pre-Goddard when it was difficult to distinguish between the regulator and the regulated.

Judging alone by the drug lobby opposition to Dr. Ley, I presume he would be an excellent choice as Administrator.

The appointment of a lesser man would be a tragedy. I hope the pressures will be withstood.

The public's health must remain paramount in the performance of the Administrator's duties. The American people deserve the best health care possible. They will receive it only if the drugs they get are safe, effective and used properly. And it is the FDA Commissioner, who, by his expertise and dedication to the public interest, can see to it that they do.

I trust the administration will not retreat from its responsibilities and relegate the FDA to the dangers of second-class status.

SELLS MAIL-ORDER GUNS ON STREETS OF CHICAGO

Mr. DODD. Mr. President, in the course of debate on title IV, the firearms section of S. 917, the Omnibus Crime Control and Safe Streets Act, those opposing the strong Federal law sought by virtually all of law enforcement in the Nation have repeatedly suggested that the existing law, if enforced, would be all that is necessary to keep mail-order guns out of the hands of criminals.

Such a suggestion, of course, is without foundation in fact.

The argument has no redeeming merit whatsoever.

There has been no known conviction under the mail order provisions of the Federal Firearms Act of 1938 since it was signed into law because the criminal can easily evade the requirements of law by simply falsifying his name.

It is because the weak requirements in the existing law, demanded at the time of its passage by the NRA-led gun lobby, that it is necessary to toughen the law today.

As the law now operates, just about anyone and everyone can be a gunrunner, set up his own shop and traffic in the entire military surplus small arms of World War II, and indeed in some cases, a good deal of the surplus small arms of World War I.

It has been done and it is now being done.

The Secretary of the Treasury has told Congress that a minimum of 25,000 of the 100,000 plus Federal firearms licenses in existence are not in the hands of bonafide firearms dealers.

They have been issued to the fringe element of the firearms industry who use the license to get discount rates on shooting equipment, to drifters without permanent addresses, to itinerant gun dealers who frequent county fairs, and to instant geniuses who set up street corner firearms businesses to reap huge profits.

Each of these is an open door to an arsenal. History, the uniform crime reports of the FBI, and the daily newspaper are adequate proof that this door is used all too frequently by the assassin, the criminal, and the demented.

I would like to call one such case to the attention of my colleagues. It is not a unique case. It has happened many times before.

If there is something unique about this case, Mr. President, it is perhaps that in this case the culprit was caught and prosecuted.

And I want to emphasize that the prosecution was for engaging in interstate shipments of firearms without a dealer's license. He did not bother to secure a license, he ignored the existing law.

The case involves 23-year-old Willie E. Engram, of Chicago, who was inspired by the ease with which Lee Harvey Oswald, President Kennedy's assassin, bought a high-powered mail-order rifle through the mails.

Details of that purchase by Oswald, and the similar mail-order purchase of a pistol which he used to kill Officer Tippet the same day in Dallas, dramatically brought out the weaknesses of Federal laws on the interstate sale of firearms.

Chicago police and Federal Treasury agents estimate that the street corner gun business yielded Engram about $500 a week in profits and put approximately 1,500 guns in the hands of criminals

from the time he quit regular work a few days following the assassination of President Kennedy, and the time he was apprehended in mid-July of 1964.

All the while Engram engaged in his gun racket he was under the supervision of the courts for possession of narcotics. He had previously been convicted as a thief.

It was a simple scheme Engram hit upon.

Federal agents said he bought about 60 guns a week from a Texas mail-order house for $9.65 apiece and sold them for about $16 apiece, or whatever the traffic would bear.

Most of the weapons were the cheap foreign-made .22-caliber pistols that glut the teenage and petty criminal market.

A number of such weapons were traced to crimes in Chicago, and Engram himself said he would sell to any one of any age, according to Treasury agents.

The Engram story is best told by Don Sullivan in the Tuesday, July 21, 1964, edition of the Chicago American.

The headline says: "Peddles 1,500 Guns Here—Murder, Assaults Result."

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

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

PEDDLES 1,500 GUNS HERE—MURDER, ASSAULTS RESULT

(By Don Sullivan)

Chicago intelligence division detectives, aided by United States treasury agents, have cracked a pistol-selling racket here which gained the schemer $500 a week and put an estimated 1,500 unlicensed guns into criminals' hands.

Charged with selling interstate shipments of firearms without a dealer's license is Willie E. Engram, 23, of 1425 S. Tripp av.

Treasury agents said Engram got the gun-selling idea from the assassination of President Kennedy on Nov. 22.

MAIL-ORDER RIFLE

In the furor that followed the assassination in Dallas, it was brought out that the accused assassin, Lee Harvey Oswald, had bought the high-powered rifle that killed the President from a mail order sporting goods firm in Chicago.

Details of the purchase brought out dramatically the weakness of federal laws involving interstate sale of firearms.

Agents say they believe, altho Engram will not admit it, that Engram read the news on gun sales carefully, and determined to try selling guns himself—for a profit.

Police said that guns sold by Engram were involved in a murder, in a pistol-whipping by a 13-year old boy, in an aggravated assault, and in the shooting of a woman. A convicted narcotics addict was found with one of Engram's guns in her possession.

QUIT REGULAR JOB

So successful was Engram's racket that months ago he quit his $135-a-week job as an aluminium sheet handler in McCook to sell guns exclusively. He has been operating since November.

Engram was to be arraigned Tuesday before United States Commissioner C. S. Bentley Pike. He is held under $1,500 cash bond in the federal tier of the Cook county jail.

Engram is a convicted thief under one year's court supervision for possession of narcotics.

Engram's scheme was simple. He bought cheap, foreign-made .22 caliber six-shot revolvers from a Fort Worth mail order house for $9.65 apiece and sold them here for $16 or as much as he could wheedle out of the buyer, agents said.

Federal agents said be bought about 60 guns a week. He would sell to anyone of any age, treasury agents said.

RECOVER 55 PISTOLS

Detectives have found 55 of these peculiar weapons. Police confiscated them in investigating crimes.

Most of the guns Engram bought from Fort Worth were made in West Germany. The weapons have 1-inch barrels, weigh 13 ounces, and are extremely difficult to find in a person's clothing, even for an experienced searcher.

They were sold by Buddie Arms company, 226 E. Lancaster st., Fort Worth, as "Senoritas, the world's fastest-selling snubby. Order these by the dozen at this low price, .22 caliber with free holster. Regular quantity prices for 100 guns. Free holster with each gun."

The advertisement was directed to "dealers," who are permitted to buy guns legally thru interstate mails. Bonnie Williams, assistant manager of the Fort Worth firm, admitted his firm did not check on whether purchasers were licensed dealers.

RECEIVES CUT RATES

Williams said Engram bought so many guns that the firm gave him a cut price. Engram used the pseudonyms "John Johnson," and "Billy Williams," and ordered guns by phone, according to Williams.

He said Engram phoned once to say he was selling the guns so fast he wanted them shipped by air express.

Treasury agents seized the sales invoices involving Engram-Johnson-Williams on Monday, and Assistant United States Atty. Richard T. Sikes has begun preparing the case for presentation to a federal grand jury next week.

On Dec. 14, James Arline, 34, of 3933 Drexel blvd., a cab driver, was shot to death in his cab at 44th street and Calumet avenue.

Thomas Scott, 21, of 4320 Drexel blvd., was charged with the murder, and on June 1, Judge F. Emmett Morrissey in Criminal court found Scott guilty of murder and sentenced him to 25 to 50 years in prison.

The murder weapon was one of the peculiar .22 caliber guns.

On Jan. 1, Killis Hill, 26, of 1943 Lake st., leaned out his apartment window and fired a .22 caliber pistol to celebrate the new year.

His shot struck a 37-year old neighbor woman. Hill was charged with aggravated battery. The charge was reduced in Boys court to reckless conduct by Judge Saul A. Epton, who placed Hill under one year of court supervision on Feb. 5.

On March 28, three Negro boys beat two white boys behind the Museum of Science and Industry at 57th street and South Shore drive.

One of three youths charged with aggravated battery was Otis Jones, 13, of 6019 S. Harper av.

GUN FOUND IN FLAT

The victim told police Jones struck him below the left eye with a hard object he did not see. Youth division police confiscated a .22 revolver from Jones' apartment. He was turned over to juvenile authorities.

Engram was questioned by intelligence division detectives on Sunday, the day of his arrest, and he conceded in a written statement, "I might have sold some [guns] to guys with police records." He denied selling guns to minors.

The Fort Worth firm also shows records of Engram, under his aliases, having bought 20 .38 caliber Iver Johnson revolvers and 10 .32 caliber Iver Johnson revolvers at $24.75 each, and 10 .25 caliber Galesi automatic pistols at $19.95 each.

Mr. DODD. Mr. President, 2 days later, July 23, 1964, the Chicago Sun-Times had some editorial thoughts on the subject. In an editorial entitled "Restrict Gun Sales," the editors began this way:

The Federal law governing the sale of firearms by mail-order is, as we have noted in the past, a weak flabby law. Under the Federal Firearms Act, which regulates the sale of firearms in interstate commerce, the seller of firearms must be free of a criminal record, he must pay $1 for a Federal license and he cannot knowingly sell a firearm to a man with a criminal record.

Under those loose regulations anyone can buy a deadly weapon by mail order. The gun used to assassinate President Kennedy was purchased in this manner. . .

Mr. President, I ask unanimous consent to insert the entire editorial in the RECORD at this point.

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

RESTRICT GUN SALES

The federal law governing the sale of firearms by mail order is, as we have noted in the past, a weak and flabby law. Under the Federal Firearms Act, which regulates the sale of firearms in interstate commerce, the seller of firearms must be free of a criminal record, he must pay $1 for a federal license and he cannot knowingly sell a firearm to a man with a criminal record.

Under these loose regulations anyone can buy a deadly weapon by mail order. The gun used to assassinate President John F. Kennedy was purchased in this manner.

This week a Chicagoan with a criminal record for possession of narcotics was arrested for selling guns. In the past eight months he has purchased at least 1,500 guns from mail order houses. He concealed the fact that he had a criminal record from the dealers. He resold the guns to anyone who had his price and he has admitted that some of the guns he sold might have gone to known criminals.

Many legitimate gun dealers try to protect themselves and the public by requesting that a buyer submit an affidavit testifying that the buyer does not have a criminal record and is over 21. This request is easily evaded by using a false name, as did the Chicagoan arrested this week.

We have made a suggestion in other editorials and we repeat it now for the benefit of Illinois members of Congress.

The federal laws regulating the sale of firearms should contain a restriction limiting the sale of firearms from any legitimate source to those who have obtained a permit to buy from their local police department. Such a restriction would not hamper sportsmen or gun fanciers. It would sharply curtail, if not eliminate, the sale of guns to criminals, the mentally deficient and minors.

Mr. DODD. Mr. President, this was a classic example of a criminal using the free enterprise system to illegally supply other criminals with firearms. He was reasonably sure of some success and profit for his enterprise after reading how an assassin had no trouble in circumventing the Federal law using a similar subterfuge.

It was 4 years ago since that incident. The Subcommittee on Juvenile Delinquency, while investigating the firearms problem, used Chicago as a basis for one of its own studies.

The sales receipts for some 4,000 handguns delivered to Chicago residents by two California firearms dealers were ex-

amined by the Chicago police at subcommittee request.

The finding was distressing, and pointed up the same deficiency in Federal law that made a small fortune for Engram.

Of the 4,000 guns delivered via mail order—common carrier—to Chicago for the period of about 1 year, more than 25 percent of them, according to Chicago police records, went to known criminals.

And actually, the distribution of the firearms within the city followed the pattern for the distribution of mail-order firearms the subcommittee has found across the country.

And that is that the bulk of the guns went to the high crime areas of the city. In the high crime areas of the city, the percentage of guns that went to known criminals was much higher.

For example, in Washington, D.C., a similar study was conducted by the Juvenile Delinquency Subcommittee in 1962. It was found that some 25 percent of the mail-order firearms here were delivered to known criminals—persons who would not be eligible to purchase them under the law of the District of Columbia.

However, in the year used as a base for the subcommittee study, the high crime precinct was the Second Precinct, and more than 80 percent of the mail-order firearms delivered in that precinct went to known criminals.

Mr. President, things have not changed much since that time, in either Washington, D.C., or Chicago.

In the Nation's Capital, right now, bus drivers refuse to drive at night because they fear being held up and murdered. Many of them have been.

Firearms are abundant here. The Federal Government has not yet tightened up the law, has not taken even a minimal step to keep deadly weapons out of the hands of those who have already demonstrated themselves to be deadly people.

The high crime rate and the proliferation of firearms are on the public mind, and they want something done about it.

The dire situation in Chicago, for example, has caught the attention of the editors of the Racine, Wis., Journal-Times.

In the April 26, 1968, edition of the Journal-Times, in an editorial entitled "Just a Plain Case of Too Many Guns," the editors point out that 4 days earlier in Chicago, during approximately 26 hours, three persons were killed and 12 were injured, all by gunshots.

The editors then commented:

> This was not a riot. The incidents had no apparent connection. Nor were the victims gangsters, lawbreakers or apparently involved any kind of crime war or gang fight. Most of them were just shot in the street or in the yards of their homes for no apparent reason.
>
> This was just one day's "bag" in a large American city . . .

In conclusion, the Racine paper dotes briefly on Congress, where much of the blame seems to reside. The editorial continued:

> . . . And what happened in Chicago in one 26-hour period merely dramatizes what can happen in a society that is drenched in firearms, and in violence.
>
> Yet no gun control law has yet to come out of Congress . . .

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

I believe it strikes close to the heart of what is being discussed and debated here in the Senate in the consideration of title IV of the Omnibus Crime Control and Safe Streets Act, S. 917.

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

JUST A PLAIN CASE OF TOO MANY GUNS

On Wednesday, the Chicago Sun-Times carried a chronological chart of the hours between 5:15 p.m. Monday and 7:30 p.m. Tuesday, a period of approximately 26 hours. It listed by time 10 separate incidents, in scattered sections of Chicago, in which three persons were killed and 12 injured.

Every one of the 15 persons was shot.

This was not a riot. The incidents had no apparent connection. Nor were the victims gangsters, lawbreakers or apparently involved in any kind of a crime war or gang fight. Most of them were just shot in the street or in the yards of their homes for no apparent reason.

This was just one day's "bag" in a large American city, admittedly not typical, but illustrative.

In an editorial in that same edition, the Sun-Times points to the fact that in 1966 (the last year for which figures are available) there were 6,400 murders, 10,000 suicides, 100,000 injuries and 2,600 accidental deaths—all by gunshot. Guns were used in 43,000 assaults and 50,000 robberies. The Sun-Times says that 10,000 guns reach private hands each day.

That's too many guns. That's too many lives taken by guns, too many injured, assaulted and robbed. And what happened in Chicago in one 26-hour period merely dramatizes what can happen in a society that is drenched in firearms, and in violence.

Yet no gun-control law has yet to come out of Congress. A weak bill has been reported out of a congressional committee, with only a small chance of adoption and no chance of effecting genuine control.

RESIGNATION OF DR. JAMES GODDARD AS COMMISSIONER OF FOOD AND DRUG ADMINISTRATION

Mr. KENNEDY of Massachusetts. Mr. President, I read with regret in this morning's press of the resignation of Dr. James Goddard as Commissioner of the Food and Drug Administration. Since 1966, when Dr. Goddard became Commissioner, he has displayed his unfailing dedication to the protection of the consumer against the marketing of unsafe and ineffective drugs. We all remember the thalidomide tragedy, which resulted in the birth of 7,000 seriously deformed children throughout the world. We have read more recently of the deaths of children caused by the drug chloromycetin, because the drug is being promoted and thus prescribed for uses which are not indicated.

The drugs which are being marketed today are increasingly powerful chemical agents which must be tested properly before marketing and used with the greatest caution. The only way we can be certain that the drugs which our citizens receive are as safe as possible and that physicians are given accurate and truthful information about the drugs they prescribe, is to insure that the food and drug laws are vigorously enforced.

The man who heads this agency must have the tenacity and dedication to seek the enforcement of these laws. He must be able to resist those pressures which may endanger the safety and well-being of the American people. He must insure that adequate and reliable information on all drugs is distributed to the medical profession. And he must be a man who is willing to act upon his convictions, alerting Government, industry, the medical profession, and the consumer wherever laws are violated.

Dr. Goddard has performed these functions well in his 2 years as FDA Commissioner. He has been willing to take stands which drew upon him the criticism of the drug industry when he felt that his position was in the public interest. He has called for the prosecution of firms which have violated provisions of the Food and Drug Act. He has had drugs removed from the market whenever the evidence indicated that their dangers outweighed their possible benefits. He has held up the marketing of drugs, often in the face of great industry pressure, when assurances of safety and efficacy did not exist.

Dr. Goddard is to be highly commended for his performance as FDA Commissioner, and it is to be hoped that a successor will be appointed who will continue the vigorous enforcement of the food and drug laws, so that the health of the American public will be protected and enhanced.

ARMS CONTROL AND DISARMAMENT AGENCY RESEARCH CONTRACTS

Mr. FULBRIGHT. Mr. President, during the debate on H.R. 14940, I placed in the RECORD several excerpts from, and descriptions of, particular external research contracts that had raised questions in my mind as to the value of these exercises.

The Arms Control and Disarmament Agency—ACDA—has now undertaken to justify these particular contracts as is entirely appropriate. I am happy to accede to the request to make the justifications public and ask unanimous consent that they be printed in the RECORD at the end of my remarks.

I hope that all those interested will read them to judge for themselves. For my own part I do not find them particularly convincing but it may be that the Committee on Foreign Relations is not in a position to appreciate the finer points of all this research.

Nevertheless, I hope that the ACDA will carefully reexamine its contract research program. Perhaps it would be helpful if an objective analysis of these studies could be made by someone for some group like the ACDA General Advisory Committee so that critics are not immediately branded as anti-intellectuals if they question the expenditure of public funds for this type of research.

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

ANSWERS TO QUESTIONS RAISED BY SENATOR FULBRIGHT ON APRIL 22, 1968, WITH REFERENCE TO CERTAIN ACDA RESEARCH CONTRACTS

[ACDA/WEC–98]

ARMS CONTROL AND LIMITED WAR (DESIGN STUDY)

Massachusetts Institute of Technology

Senator FULBRIGHT. The summary paragraph indicates what it dealt with and how significant the conclusions were, it reads:

"In the final analysis, policy will still operate in the gray area, unable for sound reasons to occupy either black or white. Freedom and justice remains the highest values of political ethics. But they sometimes become confused with power and prestige. In our judgment, both world peace and deepest American values will be served by a strategy of conflict control that vigorously seeks to support freedom and justice in ways that purposefully minimize violence."

This cost $232,500.

The study came up with a generality which, in my humble judgment, I fail to appreciate, and I do not think the study is justified.

ACDA Answer: The paragraph chosen for quotation does not purport to be a summary of the entire report, or even of the conclusions of the study. It refers to one general finding of the study as to the need for a purposeful U.S. strategy of conflict control and does not purport to cover a number of other important findings of the study presented elsewhere in the Summary volume.

The study applies a local conflict control model to a number of cases of post World War II conflict to identify phases of conflict, factors tending to create and intensify hostilities and possible control measures. A major portion of these findings concern the role of weapons in local conflicts.

ACDA believes that this study was very useful and well worth the amount. Through the refinement and further development of the findings in the study, ACDA hopes to be able to identify evolving conflict situations in the developing areas and to show how they might be influenced.

[ACDA/GC–83]

LEGAL ASPECTS OF VERIFICATION IN THE SOVIET UNION

University of Wisconsin

FULBRIGHT (memorandum). This is the final conclusion of the summary report of a University of Wisconsin Law School study on "legal aspects of verification in the Soviet Union."

Hard information about Soviet law and practice is unavailable in many areas relating to the verification of an arms control agreement. For this reason, many questions relevant to the legal aspects of verification cannot be fully answered. The problems that would arise in the negotiation of an arms control agreement would be mainly administrative. Since the political underpinnings will determine the overall acceptability of a verification arrangement, political monitoring would be necessary on a continuing basis. And because the practical administration of the vertification arrangement will determine the ultimate success of an arms control agreement, a single Soviet agency that could centralize and therefore support and facilitate the work of an arms inspectorate would be desirable.

It cost ACDA $45,000 to be told this.

ACDA Answer: The paragraph chosen for quotation does not purport to be a summary of the report.

The University of Wisconsin has examined in great detail the many legal questions that would arise under Soviet laws and administrative regulations when foreign nationals conduct an arms control inspection in the Soviet Union. Besides focusing on the laws governing such issues as privileges and immunities of inspectors and the movement of supplies and equipment within the Soviet Union, the study considers the effect on an arms control inspection of Soviet secrecy laws, use of monitoring devices, overflight photography, and access to sensitive areas.

Among the arms control proposals the U.S. has advanced are the comprehensive test ban, the cut-off in the production of fissionable materials for use in weapons, and the freeze on strategic delivery vehicles, all of which we have said require verification by inspectors on Soviet territory. The study expressly analyzes these legal issues in the three contexts of a comprehensive test ban, a cut-off and a freeze and considers the variations in these problems that could arise from the form of inspectorate chosen. If the U.S. is to propose the above measures, it is certainly necessary to examine problems posed by inspections in the Soviet Union. For this task comprehensive information and analysis of the legal problems likely to arise during inspection on Soviet territory is essential.

ACDA regards this study as very useful and well worth the money. In addition, Volume 4 of the *Journal of the National Classification Management Society* has been given permission by the University of Wisconsin and the Arms Control and Disarmament Agency to publish the sections of the study dealing with Soviet classification laws. It is worthy to note that within the Executive Branch of Government where original security classification authority exists, this portion of the study has received very wide attention and comment. Those entities in the Executive Branch of Government charged with the original classification policy decisions have stated that they have never seen an informative article on the Soviet classification laws prior to the publishing of the ACDA contract GC–83.

[ACDA/IR–53]

ARMS CONTROL ARRANGEMENTS FOR THE FAR EAST

Hoover Institution at Stanford University

Fulbright (memorandum). This is a summary of a summary report on "Arms Control Arrangements for the Far East" by Stanford University:

"We do not wish to advocate either for ourselves or for others a position in which we have 'peace' simply because we cannot defend ourselves and must accept the declarations or fiat of others if we wish to survive. Therefore, we cannot advocate a reduction of arms where the threat to the whole region is such that no regional state is completely free from fear. On the other hand, we do not advocate an increase in arms; instead we advocate an increased sense of regional security. The preceding proposals are designed to promote this end and to effect a breakthrough in realistic arms control. In our view, these proposals will best serve the long-term interest of the United States as well as that of the region."

ACDA answer: The statement quoted in Senator Fulbright's memorandum on ACDA external research is *not* a summary of the Hoover study. The quoted statement was mislabelled as a summary of one chapter of the 21-page Summary report, which is in turn a condensed version of a 190-page report. The quoted statement is not even an accurate summary of the one chapter it purports to summarize. Certainly the entire cost of the study cannot be allocated to the quoted or any other single statement, whether or not it is called a "summary" or a "conclusion."

In his message to the ENDC on January 2, 1966, the President suggested that "countries, on a regional basis, explore ways to limit competition among themselves for costly weapons often sought for reasons of illusory prestige." This study by Hoover Institution examines sixteen countries in the Far East to determine the possibilities and limitations of arms control and disarmament arrangements for the region of the Far East.

The study focused in detail on those aspects of Far Eastern politics relevant to arms control, including foreign and domestic policies, internal and external sources of possible conflict affecting arms control attitudes, and national positions on specific arms control proposals. The analysis considered attitudes and interests affecting regional agreement or adherence to general measures such as the test ban, arms reductions, nuclear free zones, and non-proliferation. The Report recommended six major categories of proposals deemed feasible in the region and discussed the negotiability of each.

[ACDA/WEC–119]

COMPUTER SERVICES FOR U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Control Data Corp.

FULBRIGHT (memorandum). "Question: Why is ACDA involved in war simulation activities?"

ACDA Answer: In order to execute its mission ACDA requires accurate and timely information on the sizes, capabilities and limitations of present and planned armaments. War simulation activities are essential to an adequate understanding of the capabilities of forces and the potential value and hazards to U.S. security of arms control and disarmament measures. To the extent that they are applicable and available to the Agency, war simulation studies of other agencies are used, but it is rarely possible to gain the required insight from a written or oral report by an external study group. The Agency's internal study group not only makes special studies in a timely manner, but also has highlighted potential difficulties in negotiation. Since studies of the negotiability of proposed arms control agreements require analysis of the Soviet viewpoints as well as those of the U.S., ACDA studies have a dimension not often present in other war simulations.

In addition, the capability to conduct simulation studies permits ACDA to explore many ideas and sort out those which maintain U.S. security and appear to be negotiable. Of the many arms control suggestions originating in ACDA or coming to our attention, only those found to be promising are advanced for further evaluation and criticism by other government agencies.

[ACDA/ST–137]

FURTHER INVESTIGATION OF SCEPTRON AUDIO FREQUENCY TECHNIQUES

Sperry Gyroscope Corp.

FULBRIGHT (memorandum). . . . and visit missile manufacturers to see whether any unique process is associated with missile production.

"Question: What Agency purpose is served by Sperry visits to other manufacturers for such an indefinite reason?"

ACDA Answer: The quoted task was the smallest of four tasks assigned under this contract at a total cost for the four tasks of $39,776. The purpose of the task was to ascertain whether any process uniquely associated with rocket or missile manufacture produced a unique acoustic signal for which a special monitoring device, SCEPTRON, could be programmed so that using the SCEPTRON technique such manufacture could be detected and identified at some distance. If such a unique acoustic signal were found to exist, the technique would provide a relatively unobtrusive method to assist in verifying an arms control measure to limit the production of strategic delivery vehicles.

The work is directly applicable to the U.S. proposal to freeze the numbers and characteristics of offensive and defensive strategic delivery vehicles.

[ACDA/E-113]

ANALYSIS OF DEFENSE WORKER REEMPLOYMENT

University of Colorado

FULBRIGHT (memorandum). This study will coordinate, compare, and evaluate the data developed in the mobility of defense workers from the following three studies sponsored wholly or in part by ACDA: ACDA/E/RA-13: Dyna-Soar Contract Cancellation (Boeing Co.); ACDA/E-67: Martin Company layoff; and ACDA/E-69: Republic Aviation Corporation layoff.

"Question: ACDA paid more than $92,587 for the three studies cited above. Why is it necessary to spend another $65,000 to find out their worth to ACDA? Isn't the 'coordination, comparison, evaluation' role within ACDA's in-house capability?"

ACDA Answer: The three studies (Boeing, Martin and Republic) were contracted for as the layoffs occurred and with those in the best position to conduct surveys of the released workers and to tabulate the results. The results were not presented uniformly by the three contractors and the amount of analysis also varied. The resources and time of the three contractors were limited. Thus it was not possible for them to subject the results to the various statistical techniques necessary to draw proper conclusions as to the effects on reemployment experience of the numerous possible single factors or combinations of factors nor were they able to take proper account of each of the other studies.

The contractor for the fourth study has been asked to arrange the results from the three studies in a single framework and to subject the results to intensive and sophisticated statistical analysis. This has required a very considerable number of computer runs. The ACDA staff available for domestic economic impact analysis has been only two or three people. This staff could have undertaken the integrated analysis of the three studies only if it concentrated all its time and energies on this task for a period exceeding two years, to the exclusion of monitoring other existing and planned research and of coordination with other government agencies and others doing research.

[ACDA/WEC-126]

ARMS CONTROL SPECIAL STUDIES PROGRAM

University of California, Los Angeles

FULBRIGHT (memorandum). "Question: Doesn't this [$120,230] seem a bit expensive for new ideas?"

ACDA Answer: In our view this contract is not unduly expensive as a means of generating new ideas and concepts in the arms control field. Under a cost-reimbursable agreement, we will obtain up to seven man-years of faculty and graduate student effort over a period of 15 months at a maximum cost of $120,230. These researchers are paid at standard university salary scales, which are considered reasonable.

In selecting U.C.L.A. for this program, we have sought to take advantage of a strong interdiscplinary capability already in being in the University's Security Studies Program. The purpose of this contract is to direct this capability toward a consideration of arms control problems and to stimulate fresh thinking on these problems. A total of 10 separate lines of inquiry are under way on a variety of arms control issues, including arms transfer publicity arrangements, nuclear-free zones, and strategic force controls. We have every reason to expect that this research will result in new ideas and approaches which the Agency can use to develop arms control and disarmament proposals.

[ACDA/E-104]

SOCIAL AND PSYCHOLOGICAL ASPECTS OF VERIFICATION, INSPECTION, AND INTERNATIONAL ASSURANCE

Purdue University

FULBRIGHT (memorandum): "Question: What's the direct connection with arms control and disarmament?"

ACDA Answer: This was the first important contract for obtaining "the essential * * * psychological * * * information upon which realistic arms control and disarmament policy must be based" as provided in the last paragraph of Section 2 of the Arms Control and Disarmament Act, as amended.

The purpose of the study is to shed light on the attitudes, in the Soviet Union and in the United States, toward verification of arms control measures. It is well known that some actions, documents and behavior are interpreted very differently in the west and in the Soviet Union and some other communist countries.

The study will include case studies of certain crises in the Kennedy-Khrushchev era, including the Vienna Summit meeting, the Berlin episodes of 1961–1963 and the Cuban missile crisis. It will examine the successful resolution of the limited test ban treaty discussions and the negotiations in 1962 for East-West exchange programs.

Special attention will be paid to conditions during inspection which might tend either to assure or to arouse suspicion. If feasible, at least a crude model for giving assurance will be constructed.

[ACDA/ST/RA-34]

TASK ORDERS TO THE C & GC/ESSA (DEPARTMENT OF COMMERCE FOR THE SUPPORT OF SEISMOLOGICAL RESEARCH)

Department of Commerce/ESSA

FULBRIGHT (memorandum). "Question: Doesn't this subject fall more precisely into the Atomic Energy Commission's area? What relationship does it have to arms control and disarmament?"

ACDA Answer: The best method of detecting and identifying underground nuclear explosions from remote locations is through the collection and analysis of seismic data. In general, ACDA depends upon DOD/ARPA (not the AEC) for the development of seismic detection techniques, and works in close coordination with DOD in this area. However, ACDA has sponsored some rather small independent efforts (of which RA-34 is one) to examine seismic problems peculiar to arms control which are not being covered by ongoing research elsewhere in the government. The purpose of RA-34 was to analyze seismic data obtained at distant stations in connection with nuclear tests at the Nevada Test Site, for the purpose of determining the relationship between seismic signal amplitude and the size of the nuclear explosion which produced the signal. Knowledge of this relationship is fundamental to the analysis of the effectiveness of seismic verification techniques for the development of a US position on the comprehensive test ban. This project was coordinated with the DOD to assure that it did not duplicate work being done by them and they endorsed our carrying it out.

[ACDA/ST-127, ACDA/ST-64, and ACDA/ST-94]

A MODEL STUDY OF THE ESCALATION AND DE-ESCALATION OF CONFLICT

University of Pennsylvania

FULBRIGHT (memorandum). "Question: For more than $300,000 what relevance do these studies have on the current crises confronting the US? And how do they apply to the arms control and disarmament negotiations?"

ACDA Answer: This project is primarily basic research, and is not intended and expected to provide concrete answers on current crises confronting the U.S. This research is directed to the systematic examination of the fundamental factors associated with escalation and to the development of techniques for solving future conflict problems through arms control negotiations. Our experience with the problems of escalation in current conflicts should demonstrate the desirability of determining the importance of various factors contributing to it in order to be in a better position to handle future problems. This control was discussed at some length in the hearings before the Foreign Relations Committee on H.R. 14940, see pp. 16–19.

[ACDA/WEC-135]

ARMS CONTROL AND LOCAL CONFLICT

Massachusetts Institute of Technology

FULBRIGHT (memorandum). "Question: Isn't this project similar to the Escalation-De-escalation study (ACDA/ST-127)? What practical value do gaming techniques have for spotting, alleviating, or ending conflicts?"

ACDA Answer: The gaming techniques in the MIT study represent a different approach from that utilized in the Escalation-De-escalation study at the University of Pennsylvania (ACDA/ST-127). The MIT study uses people to assume the role of decision-makers. The Escalation-De-escalation study emphasizes the development of basic mathematical gaming techniques for potential application to arms control decision-making. The basic difference between these approaches is that the MIT effort utilizes human responses, whereas the Pennsylvania research is primarily a development of mathematical logic. The two efforts, although differently oriented, are coordinated within ACDA and by direct communication between the contractors.

In testing arms control measures, we need to obtain insights into the probable effects of specific arms control actions. Manual political-military gaming, which has been used extensively within the U.S. Government, offers one technique for obtaining these insights. This technique calls for a simulation of the decision-making process of various nations by the use of teams of Government officials and private experts. Through the interaction of these teams in hypothetical local conflict situations, we are able to test the feasibility and effectiveness of various types of conflict control measures, in particular those measures identified in the MIT contracts.

COMMENDATION OF DR. EDWARD WENK'S KEYNOTE ADDRESS AT THE UNDERSEA MEDICAL SOCIETY MEETING

Mr. PELL. Mr. President, Dr. Edward Wenk, Jr., the wise and able executive secretary of the National Council on Marine Resources and Engineering Development, recently addressed a meeting of the Undersea Medical Society in Miami, Fla.

Dr. Wenk's speech on this occasion included an excellent summary of the progress this country has made in its marine sciences program and some interesting suggestions for the future, particularly in the field of undersea medicine.

In order that all Senators may have an opportunity to read this fine statement, I ask unanimous consent that Dr. Wenk's address, "Man and the Decade of Ocean Exploration," be printed in the RECORD.

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

MAN AND THE DECADE OF OCEAN EXPLORATION

(By Edward Wenk, Jr., executive secretary, National Council on Marine Resources and Engineering Development)

(NOTE.—Keynote address, first scientific meeting of the Undersea Medical Society in conjunction with the Aerospace Medical Association, Miami, Fla., May 9, 1968.)

It is a very great honor—and a very great pleasure—to be here today on this auspicious occasion of this first scientific meeting of the Undersea Medical Society.

The purposes of your organization—the vision of its founders—the contributions of its members from industry, from the academic community, and from Government—have an enormous potential for contributing to man and to mankind. For as this Nation renews its involvement in the sea and extracts its benefits, it will be necessary for man to confront a hostile and strenuous environment, just as he was challenged by advanced civilian and military aviation; lunar and space exploration; and military and commercial submarine and diving operations. With the aid of modern science and technology, man conquered these hurdles.

Your quest extends that conquest. You are interested in "man the undersea explorer."

I should like to focus this keynote address from the vantage point of the President's Office on the undersea frontiers which in the decade ahead man will begin to explore.

America's involvement with the sea began with maritime exploration. The bold and the adventurous from Europe discovered and settled this new land. The seaboard colonies and the national leaders they spawned recognized both the importance of the seas and the necessity for expanding maritime commerce. We developed a fishing industry and a whaling fleet. Our clipper ships outsailed all competition. Our knowledge of wind and waves 100 years ago made us a leader in oceanography. But that interest was not sustained.

Only recently have we sought a transition from random exploration and exploitation of the seas to systematic use and management of the marine resources—to win treasures from the sea that will help us fulfill our broadest goals and aspirations.

We are witnessing in the United States a maritime Renaissance a national return to the seas. It is prompted by three influences: by a legislative mandate of the Marine Sciences Act of 1966; by an emerging interest throughout the world to utilize resources that are beyond national sovereignty; and by a revolution in technology that can make these desires a reality.

That technology includes the presence of man—to observe, to measure, and to work in the sea, either as a free swimmer or from underwater vehicles.

All three of these considerations converge, incidentally, in the proposal made recently by President Johnson that the United States take the initiative in launching an International Decade of Ocean Exploration for the 1970's.

A NEW NATIONAL POLICY AND PROGRAM

The Marine Resources and Engineering Development Act of 1966 made it the policy of the U.S. "to develop, encourage, and maintain a coordinated, comprehensive, and long-range program in marine science for the benefit of mankind." This milestone in our history is the product of several individual members of Congress who took a special intest in oceanography and had key roles in subsequent developments: Senators Warren G. Magnuson, Claiborne Pell, and Bob Barlett; and Congressmen Alton Lennon, John Dingell, and Charles Mosher. I am proud to recall Congressmen Paul Rogers and Dante Fascell from Florida as among those who foresaw the potential of the sea and the need for National leadership if this promise of the sea were to be converted to reality.

The Marine Sciences Act reaffirmed the leadership of the President to provide essential momentum and direction to our ocean endeavors. It provided two new instruments to assist the President: a policy planning Council at the Cabinet level, chaired by Vice President Humphrey, and a public advisory Commission of distinguished citizens to develop long-range recommendations.

What has the Administration done during the past twenty months to respond to the legislative mandate? The Council has met 11 times with the Vice President personally chairing all but one. It has functioned in an activist, creative role to identify opportunities and to recommend explicit goals and programs to the President, incorporated in two annual reports to the Congress. It has sought to apply science and technology in the ocean to strengthen our economy by identifying new sources of food, fuel, and minerals; enhance the quality of urban living by arresting pollution, by limiting water front development, and by providing new opportunities for recreation; further world understanding and security through international cooperative marine endeavors, legal arrangements to avoid conflict, and an unexcelled naval capability to deter aggression.

To foster this Nation's leadership in the sea, the President has undertaken this year to inaugurate expanded programs of international ocean exploration; intensify use of food from the sea in the War on Hunger; promote optimal use of the coastal zone with new emphasis on cooperation between the Federal Government and State and local interests; initiate steps leading to improvements of our harbor and port systems; institute new measures to insure safety of life and property at sea; extend reconnaissance mapping of the Continental Shelf; increase investments in manpower and research; improve our capabilities to work in the deep ocean; and foster marine applications of new technologies.

In every case we have attempted to identify an unmet need of priority concern to our society. Then we have developed a program to mobilize the ideas, the capital, and the participation of interested parties—public and private—in utilizing the sea more effectively to respond to this need.

The challenges of the decades ahead are known—and they are real. And the seas can help us respond. There is first the problem of an imbalance between population and food supply. It took 1,500 years, from the birth of Christ to the time of Columbus, for the world's population to reach 500 million. And it took another 350 years for it to reach 1 billion. But then it took only 75 years to reach 2 billion; 37 years (up to 1962) to reach 3 billion. It will take only 13 years—to 1975—to reach 4 billion; and 7 years more—to 1982—to reach 5 billion.

Authorities on food agree that the world's rising population faces hunger and starvation. The President's Science Advisory Committee Panel on the World Food Supply concluded a year ago that "The scale, severity, and duration of the world food problem are so great that a massive, long-range, innovative effort unprecedented in human history will be required."

Food from the sea is one of the untapped sources this Nation is examining to improve the world food problem. The goal of our Fish Protein Concentrate program, for example, is to meet the animal-protein needs—10 grams per person per day—of 200 million by 1980. Coupled with other food programs that should save millions of lives.

People must have places to live and play. Today 75 per cent of the U.S. population lives in coastal states. More than 45 per cent of our urban population lives along the coasts. All of the megalopoli projected for the year 2000 are in the Coastal Zone. The problems that could arise from disposal of waste from such a concentration of people—at the very sea shore we seek to preserve for rest and recreation—require the steps that must be taken to manage the resources of the Coastal Zone prudently.

Another challenge is that of requirements for minerals and fuel. By 1980, U.S. consumption of non-fuel minerals is expected to double, and consumption of petroleum is expected to increase by about 50 percent. Projections show an increasing percentage must come from the Continental Shelves. Offshore production in Louisiana, for example is growing four times as fast as onshore production.

The oceans always have been highways to transport and trade, and they probably always will be. Ocean commerce doubles every 20 years. Foreign trade was 300 million tons in 1963. It will be 1,200 million by the year 2000.

AN INTERNATIONAL DECADE OF OCEAN EXPLORATION

Our increasing uses of the sea are clear. And to use the sea, man must first explore it—just as he has explored every geographical region on his planet. Moreover, the task is so great, every nation must share in this endeavor.

On March 8, 1968, the President proposed that the United States take the initiative in launching "an historic and unprecedented adventure—an International Decade of Ocean Exploration for the 1970's."

The President has invited and encouraged the efforts of other nations in developing the promise of the sea, for, as he stated, such activities could "expand cooperative efforts by scientists from many nations to probe the mysteries of the sea; increase our knowledge of food resources, to assist in meeting world-wide threats of malnutrition and disease; bring closer the day when the people of the world can exploit new sources of minerals and fossil fuels."

The Decade is envisioned as a period of intensified planning and execution of national and international programs of resource exploration and oceanic research.

It will be a broadly based international cooperative program with all nations encouraged to participate in and benefit from the Decade. The Marine Science Council has the responsibility for planning and coordinating our contributions to this international endeavor. The scientific and industrial communities will continue to participate in this planning activity particularly through the National Academy of Sciences and National Academy of Engineering.

Each nation can contribute its particular expertise and capabilities, assume its fair share of responsibility for the program, and disseminate to others the results of its scientific discoveries.

THE ROLE OF MAN IN THE SEA

Notwithstanding the sophisticated instruments and systems now available for oceanographic science and technology, it is man *in situ* who is best able to observe with all his senses and to make decisions. Just man must go into outer space—not remain content with pictures, specimens, and data returned from remote probes—so man will be compelled to venture into the sea.

Man is in the sea and increasingly is using seafloor habitats for studies and living and non-living resources and for physiological studies of man in the undersea environment. SCUBA breathing apparatus, Saturated Diving techniques, and other technology enables man to operate to almost 1,000 foot depths.

There are, however, thousands of square miles of ocean bottom deeper than 1,000 feet. At greater depths, man is unable to work except with the aid of a vehicle to protect him against pressure and to provide endurance, mobility, and a source of power, light, and instruments.

I well remember the skepticism some 13 years ago that greeted my proposals of going beneath the thin layer of ocean then accessible to our military submarines. The arguments against deeper operations ran like this: greater depths required a stronger hull for the vehicle, and a stronger hull was considered inevitably heavier. If more weight were committed to the pressure hull, other performance characteristics would have to be sacrificed. Thus, at a time when the genie of nuclear power was unshackling the submarine from frequent surface refreshment, the opportunity to operate through the entire oceanic medium was deferred because the design obstacles seemed insurmountable.

The feasibility of going deeper was demonstrated by the transfer of very simple lessons from aircraft practice—to utilize structural materials with a higher ratio of strength to density, and to design with such high precision that a low factor of safety can be tolerated.

An active family of research submarines has been spawned on those principles. The first of these was Aluminaut designed in 1958—now operating and based here in Miami. The importance of these vehicles is dramatically revealed by the increased number of dives. In 1965, the first year such vehicles came into use, about 29 research dives were recorded. Since then more than 1,000 dives have been made by such submersibles for research and exploration. Contributing significantly to this enterprise are John Perry and Edwin Link in their imaginative development of "Deep River" that not only provides a vehicle but incorporates a "lock-out" capability to carry human divers to undersea work sites.

The first scoutings have been made, but the ocean depths today largely remain a mystery. Beyond the twilight zone of the Continental Shelf lies an unknown world—with its unfamiliar terrain and tremendous pressures—a world vastly more hostile than any other early westerners could have imagined. But in this new environment to which man is now called, what new opportunities these deep vehicles will provide!

In their journal, Lewis and Clark wrote, "In passing from the falls of the Missouri, across the Rocky Mountains, to navigable waters of the Columbia, you have two hundred miles of good road, steep, rugged mountains, sixty miles of which is covered with two to eight feet deep with snow of last June."

What we wouldn't give to have such descriptions of the ocean depths!

MAN AND HIS NEWEST DISCIPLINE: UNDERSEA MEDICINE

The Decade of Ocean Exploration is a new era for man and his relationship to the sea. This will be true in his exploration of the deep ocean in submarines—and of the Continental Shelf in and out of vehicles. A new scientific discipline has accordingly emerged—undersea medicine. This is why you have formed this exciting new society—appropriately as an adjunct to the Aerospace Medical Association.

Both private industry and the Navy are developing the equipment and techniques by which divers can work in the sea longer, at greater depths, with better tools and more safety. This man-in-the-sea capability should have commercial applications as oil, gas, and mineral extraction move into deeper water on the Shelf and operations are conducted submerged.

Complementing the Navy program for undersea search, rescue, recovery, and man-in-the-sea is a Deep Submergence Biomedical Program to improve decompression schedules for deep diving, diver nutrition, and study of physiological and psychological factors affecting divers. A swimmer-support program is closely integrated with these efforts.

Last week the Navy, the National Aeronautics and Space Administration, and the Department of the Interior announced plans for Operation Tektite, expected to begin next February. Four American scientists will spend 60 consecutive days on the ocean floor, the longest continuous undersea stay by any divers to date. By performing studies of marine geology, underwater mapping, and fish life, some of the divers will be collecting useful marine observations and data. But then some other undersea scientists will be studying the first group of undersea scientists in the types of activity for which the Undersea Medical Society was established. They will be collecting and analyzing human behavioral data to learn how men hold up on long-duration missions. These missions happen to be under the sea, but the human reactions will foretell human reactions on long-duration space flights, too.

INSPIRATIONS, INSTITUTIONS, AND IDEAS

I said in beginning my remarks that we are witnessing in the United States a new Renaissance: a national return to the sea, prompted by the legislative mandate of the Marine Sciences Act of 1966. That is the inspiration which impels us to examine our national policy and program in the light both of the needs of our society and the opportunities of the science and technology of today.

The Federal Government has a leadership role—but it is a role shared with other institutions. Man's use of the sea and shoreline is clearly multi-institutional as well as multi-purpose.

American private enterprise invests substantial sums in development of coastal areas, in transportation, the exploration and extraction of off-shore oil and gas, and in fishing. The States have rights and responsibilities as to in-shore water and off-shore activities. The universities and private research laboratories are key sources of basic knowledge and manpower needed by all participants in the national marine sciences programs.

Yet inspiration and institutions are not enough for the marine science challenges that lie ahead. There must be new ideas, as well.

Let me pose some challenges to which undersea medical personnel should direct their energies if we are to make a viable contribution to mankind's progress. These are some suggestions for your consideration individually and as a society.

1. Drugs from the sea

Who knew, at the end of World War II, that common dirt would hold the key to therapeutic advances which could control many of mankind's greatest scourges? The seas cover more than 70% of the earth surface. Can't we assume that the seas might hold as much potential for antibiotics as does the land?

The future value of marine sources of medicine is almost entirely unknown; research is just beginning. We know, however, that certain antiviral, antimicrobial and an array of pharmacological effects are to be found in toxins and chemicals recovered from marine plants and animals.

During 1967 an *ad hoc* Committee on Marine Pharmacology and Toxicology was established by the Marine Sciences Council as a basis for stimulating the development of a more broadly based marine pharmacology program. This is a very small first step, but an important one in this neglected area.

Progress in this area will result only from a greatly augmented effort involving Government and its health research agencies, the pharmaceutical and chemical industries, perhaps offshore mining and petroleum, the universities, and interested investigators such as may be in this audience.

2. A national man-in-the-sea facility

One of the characteristics of Federal Government programs is that they are mission-oriented, and funded by the Congress with appropriations to each given agency earmarked expressly for that agency's mission. Hence the man-in-the-sea programs I have mentioned are primarily oriented—and properly so—towards the objectives of the Navy. Yet there are many useful purposes which might be served by a man-in-the-sea facility available to civilian Government agencies, and to universities or research institutes, for contract studies with objectives different from those of the present programs. I would, therefore, suggest that eventually there should be—perhaps at one of our coastal universities—a National Man-in-the-Sea Facility. It might be operated on contract by one university or a consortium. I would like to see the scientific community take the initiative in planning and establishing it.

3. Safety on the Continental Shelf

Unquestionably, the uses of the Continental Shelf will continue to expand. These include extraction of oil and gas, mineral mining, fishing, transportation, pollution control, recreational boating and bathing, and scientific and industrial exploration. Saline water plants are being built offshore, and we may eventually see large floating airports, floating harbors and mobile breakwaters. Such construction will involve drilling, coring, pile driving, tunnelling, pipe laying, dredging, island building, and waste disposal. All such activities have inherent problems of safety for man, the researchers and workers building and using these facilities and people who live in the communities nearby on the shore or move through the area.

The Marine Sciences Council has adopted a Continental Shelf Safety initiative for FY 1969. This proposal recognizes today's intensified coastal traffic and includes steps for the control of oil pollution; improved ship navigation systems; safety standards for offshore structures and designation of sealanes; and establishment of safe procedures and rescue services for civilian submersibles and underwater activities.

We now need studies on safety for man in the sea.

4. Transfer of technology

The Nation is in the kindergarten stages of the process known as technology transfer. Several Government programs are attempting to improve their performance in this area, and several technical societies are pathfinders in various disciplines or industries.

Yet some areas of specialty are inadequately covered, and here again is valuable service which a technical society which has no precedents or prejudices might provide to its members and the public. What about the enormous reservoir of undersea technology with medical implications which the Navy and the other government agencies have collected, and how can this technology be collated, annotated, and disseminated to industry? Yours or some other technical society might decide to establish a data bank, technology switching center, or undersea medicine information service.

Those suggestions as well as the issues now being faced by the Marine Sciences Council and the Commission bring to mind my concluding thought. That is, that the energy and vitality to assure benefits from the seas must continue to be generated by scientific exploration by marine technology, and by evolving associated institutions, both public and private.

Basic to the success of this undertaking is a spirit of man—the spirit of exploration, of excitement, of achievement, and of satis-

faction in a well-done job. The men who climb Everest, those who participate in our space program, and those who explore the oceans—all demonstrate once again the ageless quality that what man can do, he will do. What man will do, he can find a way to do. And, I'd like to add, to do well.

Vice President Humphrey best characterized the marine sciences program when he said, "This program is dedicated to the pursuit of excellence. It is proving how the power of science, transformed through our various institutions and the democratic process to a technology, may serve our Nation's diverse interests."

I commend these watchwords to the Undersea Medical Society as it begins, grows, and matures to serve the profession and the Nation.

I wish you every success. You can be assured of every assistance from my office.

DATE FOR NEW WORLD MAN

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Date for New World Man," which was published in the May 1968, issue of Science News.

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

DATE FOR NEW WORLD MAN—BONES FROM WASHINGTON STATE COULD SETTLE A LONG ARCHAEOLOGICAL CONTROVERSY—DAM IS A THREAT TO SITE

For most of the 20th century controversy has raged over the antiquity of man in the New World. The pendulum of opinion has swung widely, unstabilized by very much tangible evidence.

Many people believe that man is quite young on this continent. They theorize that migration from Asia over a Bering land bridge that might have existed was blocked by glaciers. These pushed right to the sea along the coast of Alaska and Canada.

As the ice sheet withdrew, a corridor opened up down the coast. The date of opening of this corridor is one of the more hotly debated subjects among geologists. Many believe it occurred about 20,000 years ago. They don't look for traces of man any older; more recent is probable, since it took a while for enough migration to occur to provide a fossil record.

Other students of the subject, among them Dr. L. S. B. Leakey, think man got here sooner. Tools have been found near Pueblo, Mexico, that some dating procedures place between 22,000 and 24,000 years old. Even older bits of carbon that may have been associated with man or may have been struck off a tree by lightning have been found.

Opponents of this thinking doubt dating methods. Often dating procedures can be applied only to material associated with a find, not to the find itself. Often the association of the material and the object is open to serious question.

Now, at the confluence of the Snake and Palouse Rivers in Washington State, an archaeological team is racing against a man-made flood in an effort to uncover the rest of a skeleton—already the oldest positively dated human remains found in the New World—and perhaps settle the question. They have until December, possibly a little longer, to uncover the skeleton and what may be the 12,000-year-old home camp of his enemies.

After that, a lake created by the Lower Monumental Dam on the Snake River will inundate the site.

Announcement of the discovery of the bones was made last week in Washington, D.C., in the office of Senator Warren G. Magnuson (D-Wash.). Magnuson sponsored a 1960 law allowing Federal aid in excavating archaeological sites threatened by man-made flooding.

It is not so much the fact that these bones are the oldest yet found as it is that their age is closely known that will prove invaluable to researchers.

So far the study of early man in this continent has been hampered by the lack of any solid dates. Thus the Washington find will provide the first good time base to which dating existing finds and future discoveries may be pegged.

Already uncovered by Drs. Roald Fryxell and Richard T. Daugherty of Washington State University are most of the parietal bones of the skull, a few pieces of rib, fragments of some long bones, vertebrae and wrist bone. Found with these remains are fragments of the bone fore-shaft of a spear, similar to weapons of so-called Clovis Man of New Mexico and Arizona. The latter were mammoth hunters.

The first of the fragments were uncovered nearly three years ago. Drs. Fryxell and Daugherty had been making archaeological and geological studies at a small eroded cave in the canyon wall on the ranch of Roland J. Marmes. The site was a rich one, with a record of man going back 8,000 years.

In order to establish continuity of strata between the shelter and the nearby river, Dr. Fryxell called in a bulldozer to cut a trench from the shelter toward the river. The trench was over 12 feet deep and some 150 feet long when the dozer hit the first bone.

The machine was halted immediately and manual excavation began. By last year, enough pieces had been gathered and fitted together so that the skeleton could be proven human. Radiocarbon dating and other tests since then have determined the age.

The age has been fixed at between 11,000 and 13,000 years. Mussel shells in the layer overlying the bones are between 10,000 and 11,000 years old. A lake occupied the site until 12,000 or 13,000 years ago.

It is hoped that further excavation of the site will uncover charcoal from a man-made fire. This would allow even more precise radiocarbon dating, with a possible inaccuracy of as little as 200 to 300 years.

The bones were discovered undisturbed in what appears to be a kitchen midden of an ancient campsite. The camp had been made on the silt plain of the Palouse River.

It is entirely possible that the makers of the camp made dinner out of what is being called Marmes Man. Found in the midden with the human bones were bones of elk, deer and possibly antelope, all food animals. All the bones bore signs of charring as if they might have been cooked. And the leg bones of both humans and animals had been cracked lengthwise as if to extract the edible marrow they contained.

Even without positive radiocarbon dating, there is no way the bones could have gotten into the undisturbed midden without predating overlying strata.

Drs. Fryxell and Daugherty think the existence of the midden and the bone spear piece indicate that they have found a living site.

What complicates the study of early man is the fact that he was a hunter. He traveled in small bands keeping up with the game, rarely staying put long enough to accumulate much trash.

Therefore his remains are scattered around in places that an archaeologist might never look, because they appear to be unlikely campsites. The Marmes site is an exception to this. If it is a living site, it is hoped, enough artifacts might turn up along with the rest of the skeleton and possibly other skeletons, to see living patterns.

Dr. H. Marie Wormington of the Denver Museum of Natural History, president-elect of the Society for American Archaeology, says the oldest date for man in America previously obtained is about 11,200 years ago. This is the date attached to the mammoth spears and other tools of Clovis Man—of which no bones have been found.

Bones from this period are extremely scarce, in fact, even though the Clovis tools are quite plentiful, Dr. T. Dale Stewart, retired director of the Smithsonian Institution's Museum of Natural History, lists only three skeletal finds of any credibility.

One is the Melbourne skeleton from Florida, found in 1925. It has been estimated from its association with extinct animal remains, to be no more than 10,000 years old, though this can't be proven. Dr. Wormington says she tends to doubt that this find is of anywhere near this period.

Another is the Tepexpan skeleton from Mexico, discovered in an ancient lake bed in 1947, and unfortunately pulled out of its burial place with little attention to exact location in the strata. Later radiocarbon dating has set the date at approximately 11,000 years, but this too is considered to be a very unreliable figure.

The third find is the very fragmentary Midland bones from Texas, uncovered by the wind in 1953 and associated with weapons typical of Folsom Man. Uranium dating methods gave a wide range of age, from 10,000 to 20,000 years. Dr. Stewart says the figure should be closer to 10,000.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and (at 5 o'clock and 48 minutes p.m.) the Senate took a recess until 10 a.m. tomorrow, Thursday, May 23, 1968.

NOMINATIONS

Executive nominations received by the Senate May 22 (legislative day of May 20), 1968:

DEPARTMENT OF DEFENSE

Ernest Louis Massad, of Oklahoma, to be Deputy Assistant Secretary of Defense for Reserve Affairs (new position).

IN THE AIR FORCE

The following officers to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

In the grade of general

Gen. Gabriel P. Disosway, FR654 (major general, Regular Air Force) U.S. Air Force.
Gen. Maurice A. Preston, FR1337 (major general, Regular Air Force) U.S. Air Force.

In the grade of lieutenant general

Lt. Gen. Harold C. Donnelly, FR647 (major general, Regular Air Force) U.S. Air Force.
Lt. Gen. Leighton I. Davis, FR1111 (major general, Regular Air Force) U.S. Air Force.

The following-named officers to be assigned to positions of importance and responsibility designated by the President in the grade indicated, under the provisions of section 8066, title 10 of the United States Code:

In the grade of general

Lt. Gen. Horace M. Wade, FR1872 (major general, Regular Air Force) U.S. Air Force.
Lt. Gen. George S. Brown, FR4090 (major general, Regular Air Force) U.S. Air Force.

In the grade of lieutenant general

Maj. Gen. Francis C. Gideon, FR1993, Regular Air Force.

Maj. Gen. Robert N. Smith, FR3783, Regular Air Force.
Maj. Gen. Alvan C. Gillem, II, FR2025, Regular Air Force.
Maj. Gen. John B. McPherson, FR2068, Regular Air Force.
Maj. Gen. Samuel C. Phillips, FR8981, Regular Air Force.
Maj. Gen. Thomas K. McGehee, FR3809, Regular Air Force.
Maj. Ge... John D. Lavelle, FR4359, Regular Air Force.
Maj. Gen. Lucius D. Clay, Jr., FR8956, Regular Air Force.
Lt. Gen. Joseph R. Holzapple, FR1897 (major general, Regular Air Force) U.S. Air Force, to be senior Air Force member, Military Staff Committee, United Nations, under the provisions of section 711, title 10 of the United States Code.

The following-named officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be major general

Brig. Gen. Rollin B. Moore, Jr., FV397579, Air Force Reserve.

To be brigadier general

Col. Robert F. Long, FR18142, Regular Air Force.
Col. James U. Cross, FR24719 (major, Regular Air Force) U.S. Air Force.

IN THE AIR FORCE

The following persons for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

To be majors (Chaplain)

Dymmel, Elmer J., FV2251827.
Hadlock, Charles E., FV3059206.
Hafermann, Henry H., FV2251190.
Hayes, Joseph F., FV2255165.
Mattimore, William F., Jr., FV305958.
Metsy, Norman G., FV2253075.
Reese, Charles T., FV3059673.

To be captains (Chaplain)

Braun, Serran R., FV3060851.
Brooks, James A., FV3062486.
Browning, Robert L., FV3142369.
Collins, John A., FV3061268.
Daley, Neil F., FV3061820.
Diaz, Edward A., FV3061175.
Downing, Don, FV3061436.
Fahey, Kevin C., FV3061449.
Harder, Jon G., FV3199601.
McCarter, Calvin W., FV3098998.
Merrell, Robert E., FV3059878.
Metzler, Rodney A., FV3066959.

To be first lieutenants (Chaplain)

Baum, Denis B., FV3063020.
Beeson, Gilbert W., Jr., FV3062847.
Bonath, Harold D., FV3063014.
Burt, Gene E., FV3063046.
Bush, Thomas R., FV3062671.
Dabrowski, George I., FV3062753.
Deblieux, Earl V., FV3062736.
Dickey, Richard J., FV3062903.
Dwyer, Dennis M., FV3073545.
Dwyer, John F., FV3062682.
Falcone, Emilio, FV3061696.
Foxworthy, Paul D., FV3063009.
Fuemmeler, James R., FV3062659.
Gervais, Guy J., FV3062904.
Greene, James F., FV3062798.
Harlin, Donald J., FV3063062.
Kinsey, Hugh R., FV5319813.
Labone, Kenneth R., FV3105458.
Mann, John L., FV3062711.
McIntosh, Gene K., FV3062936.
Morgan, Hugh H., FV5217249.
Morgan, Rex J., FV3062718.
Ofsdahl, Donald C., FV3063051.
Reilly, F. Joseph, FV3063034.
Rhoads, William L., FV3062586.
Somma, James E., Jr., FV3062631.
Way, Joseph C., FV3062691.
Wilson, Donald L., FV3139801.
Wisniewski, Edward E., FV3139680.

To be captains (Judge Advocate)

Bush, Frederick A., FV3136785.
Deruyter, Mark, FV3086388.
Green, Henry G., FV3121758.
Hintzke, Edward S., FV3116335.
Langdell, Samuel F., Jr., FV3102252.
Lauricella, Joseph V., FV3121879.
Miller, Grant, FV3102676.
Mills, Philip C., FV3096451.
Roberts, Eldon D., FV3121080.
Smith, Roy L., FV3082321.
Swain, Robert W., Jr., FV3099479.

To be first lieutenants (Judge Advocate)

Bourassa, Clarence E., FV3180295.
Brothers, Charles A., FV3180267.
Buck, David P., FV3180291.
Chadwell, Claude C., FV3139260.
Cline, Francis C., Jr., FV3163303.
Collette, Chester A., III, FV3152915.
Craige, Fitzgerald F., FV3132251.
Culver, Thomas S., FV3180251.
Davidson, Glen H., FV3180263.
Dugmore, Kent C., FV3152902.
Eliasen, Gary R., FV3107362.
Entz, Stewart L., FV3180254.
Erbey, John R., FV3132221.
Ferguson, William W., III, FV3180283.
Freman, Lawrence A., FV3139252.
Fries, Ralph R., FV3180279.
Goldman, Donald I., FV3180257.
Graham, Jeffrey M., FV3180286.
Harris, Theophilus I., III, FV3180294.
Hecht, Harold M., FV3152923.
Herlihy, Barry H., FV3107040.
Heron, Julian B., Jr., FV3130561.
Humphreys, Richard H., Jr., FV3139232.
Indence, Anthony J., Jr., FV3180274.
Kemp, Alson R., Jr., FV3180265.
Kidder, Bradley F., FV3131219.
Losey, Franklin W., FV3131943.
Luna, Franklin A., FV3180275.
Melvin, John M., FV3120010.
Norris, Richard N., FV3130465.
Penater, Robert F., FV3118419.
Petzold, Frederick J., FV3130529.
Pierce, Clyde M., FV3133329.
Polis, Gerald D., FV3180259.
Porter, William L., FV3131671.
Pritchard, Clyde B., FV3152907.
Rodamaker, Ralph J., FV3139270.
Santora, Thomas S., FV3107482.
Schmitt, Joseph F., FV3180256.
Scott, Jerry, FV3180288.
Sheeran, Patrick D., FV3180255.
Stevenson, David L., FV3120266.
Stuart, Haral L., FV3180276.
Tate, Guinn D., FV3153547.
Warren, Alexander M., Jr., FV3130581.
Wasserman, Benjamin P., FV3107298.
Weir, Donald E., FV3180290.
Wesson, Frank S., FV3180282.
White, John P., FV3180292.
Willis, Glynn R., FV3150731.

To be majors (Medical)

Mahon, Charles H., FV3078992.
Olson, Robert M., FV3092066.
Pluggf, Frederick W., IV, FV3061088.
Po, Robert, FV3112393.

To be captains (Medical)

Aclin, Richard R., FV3168159.
Acostamelendez, Antonio E., FV3184359.
Adams, John P., FV3167784.
Alexander, Clyde W., Jr., FV3141310.
Ashby, Kenny, FV3125875.
Benson, Bennett N., FV3141353.
Bishop, John E., FV3126010.
Booth, Donald J., FV3141042.
Bornfleth, Leslie R., FV3141322.
Brath, William F., FV3184916.
Breschi, Louis C., FV3114540.
Callahan, William E., FV3127231.
Caton, Charles A., FV3166656.
Caudill, Robert G., FV3141164.
Cohn, Jerome R., FV3141187.
Cole, Toby P., FV3165297.
Conklin, Thomas R., FV3141056.
Cox, Aris W., FV3164870.
Cram, David L., FV3089068.
Delemos, Robert A., FV3140489.
Ebert, Charles D., FV3185273.
Echevarria, John, FV3088978.
Edwards, David A. Jr., FV3167909.
Eisenhart, George V., FV3165448.
Ellenbogen, Charles, FV3141664.
Erickson, Larry R., FV3167552.
Farles, James L., FV2227379.
Fascenelli, Fred W., FV2227983.
Flood, John A., FV3143224.
Fontenelle, Larry J., FV3114456.
Fox, Raymond M. Jr., FV3184736.
Frank, Sanders T., FV3166648.
Gabel, Joseph C., FV3142042.
Gigax, John H., FV3167409.
Gohman, James D., FV3168720.
Goldman, Gilbert C., FV3166473.
Good, Glenn E., FV3126909.
Guber, Michael D., FV3188416.
Hagen, William M., FV3167953.
Hargis, Robert J., FV3126047.
Harper, Douglas M., FV3143228.
Haydon, John R. Jr., FV3143549.
Jackson, Arnold J., FV3142043.
Jennings, James F., FV3125843.
Johnson, Joseph M., FV3167111.
Johnson, Randall E., FV3126250.
Kaplan, Martin L., FV3168197.
Keenan, James D., FV3143442.
Kimbel, Bruce K., FV2083741.
Kirby, Robert R., FV3141138.
Kirk, Clifford C. Jr., FV3166183.
Kish, Leslie S., FV3141158.
Lochridge, Gordon K., FV3167410.
Longnecker, Morton F. Jr., FV3085690.
Lopata, Howard I., FV3111243.
Margolis, Irwin, FV3164899.
Martin, Benjamin G. Jr., FV3141146.
Maurice, Robert H., FV3164248.
May, Robert D., FV3142818.
McKeever, Clark D., FV3187382.
Michaels, David L., FV3143163.
Mueller, Adolph R. Jr., FV3092261.
Munsell, William P., FV3126647.
Murphy, Thomas E., FV3141982.
Neimanis, Andris, FV3139919.
Ormsby, Robert B., FV3123880.
Parkins, Charles W., FV3126031.
Paull, Robert M., FV3143449.
Plager, Stephan D., FV3164630.
Pohl, Donald R., FV3140655.
Ransom, Richard W., FV3165052.
Ring, Robert J. Jr., FV3166736.
Ringler, Harold L. Jr., FV3114432.
Riveracorrea, Hector P., FV3164676.
Roberts, David B., FV3141141.
Rosenthal, David S., FV3126435.
Sanders, Gerald E., FV3165143.
Seifert, Charles L., FV3124743.
Shankle, Nelson E., FV3164991.
Shapiro, Allen, FV3142027.
Sheridan, Edward J., FV3127285.
Simonaitis, John J. Jr., FV3114335.
Solomon, James W., FV3110295.
Sonntag, Richard W. Jr., FV3184557.
Stetten, Maynard L., FV3187231.
Stieg, Richard L., FV3126011.
Suckow, Lowell C., FV3164905.
Taylor, William M., FV3141150.
Tobias, Thurman E., FV3126045.
Trapp, James T., FV3199587.
Verwest, Hadley M. Jr., FV3166397.
Vondrell, John J., FV3126129.
Walker, Ronald E., FV3167413.
Weinman, Tay J. FV3143148.
Wells, David E., FV3140653.
Williams, David V., FV3166509.
Willis, Marshall R., FV3164333.
Wright, Ballard D., FV3141154.
Wunder, James F., FV3141692.
Young, John J., FV3141152.
Zavacki, John, FV3114374.
Zimmerman, Raymond E., FV3165547.

To be first lieutenants (Medical)

Albright, Jerold D., FV3164734.
Allen, Billy R., FV2255790.
Arisco, Martin J., FV3185310.

Aston, James K., FV3164581.
Bailey, Edward J., FV3164944.
Barry, John M., FV3188107.
Battaglia, Carl J., FV3165678.
Bergstrom, Terry J., FV3027628.
Bitseff, Edward L., FV3164475.
Blackwood, Robert E., FV3199366.
Blattman, John E., FV5519198.
Bovie, Warren W., FV3188630.
Boydstun, James A., FV3164803.
Brada, Donald R., FV3165993.
Brazil, Harold H., FV3166247.
Bristow, John W., FV3184033.
Britt, Darryl B., FV3184034.
Brown, Mike J., Jr., FV3164656.
Buelow, Robert G., FV3201892.
Burgert, Paul H., FV3204058.
Calico, Forrest W., FV3164590.
Callen, Kenneth E., FV3167660.
Carpenter, Warren L., FV3170475.
Carroll, Herma G., Jr., FV3168056.
Chester, Earl C., Jr., FV3199495.
Clark, Carl M., FV3141172.
Corbett, James E., FV3200167.
Couey, Ira L., FV3166232.
Cronin, Terrence A., FV3167749.
Crow, Joe W., FV3184602.
Davis, Charles M., FV3165996.
Dean, David F., FV3166403.
Debessonet, David A., FV3166241.
Deford, James W., FV3185880.
Dehart, Rufus M., Jr., FV3064406.
Dinenberg, Stephen, FV3184558.
Diorio, David A., FV3188790.
Dorr, Maurice M., FV3187331.
Doupe, David W., FV3185805.
Duggar, Perry N., FV3164476.
Dupont, Frank S., FV3217628.
Dyer, William M., Jr., FV3165090.
Eady, John L., FV3164593.
Ehlmann, Larry J., FV3200597.
Fetzek, Joseph P., FV3188484.
Fielding, Steven L., FV3166657.
Fiure, Joseph P., FV3166246.
Fogel, Lawrence J., FV3184912.
Fong, William, FV3167120.
Friedman, Gerald S., FV3184635.
Fuerst, Donald E., FV3166219.
Garvish, John F., FV3166739.
Giacorazzi, Peter F., FV3167223.
Gibson, Gordon L. M., FV3200627.
Giffin, Edward L., FV3027436.
Graham, James F., Jr., FV3165984.
Gregg, Paul T., FV3187332.
Grinsell, Patrick J., FV3186912.
Grode, Michael J., FV3184621.
Groover, Ray, Jr., FV3184039.
Hansen, Paul T., FV3167180.
Heffron, John P., FV3184860.
Hemming, Val G., FV3164595.
Henges, David F., FV3165983.
Hinzman, Gary W., FV3202154.
Houston, Robert A., FV3166242.
Jack, Bernard R., FV2207766.
Jecha, Larry D., FV3165477.
Jenkins, Donald W., FV3166916.
Johnson, Albert, Jr., FV3164753.
Jones, Kenneth B., Jr., FV3202083.
Jurado, Rodrigo, FV3188903.
Kantack, Paul W., FV3143563.
Kellum, Donald L., FV3164696.
Kimble, Edward T., III, FV3166993.
Krege, John W., FV3164658.
Krelstein, Murray, FV3164600.
Kub, Thomas J., FV3164659.
Kutnick, Joel, FV3164480.
Landsman, Gordon S., FV3164942.
Larmee, Donald E., FV3166244.
Lewis, James A., FV3165982.
Lieberman, Stuart, FV3184622.
Lovelace, Raymond E., FV3184044.
Maier, Robert C., FV3166227.
Martindale, Richard E., Jr., FV3080208.
May, Gerald G., FV3166230.
McCray, David S., FV3200217.
McGee, James W., IV, FV3166222.
McGowen, John H., III, FV3186106.
McIntyre, Leonard J., FV3164672.
Michaelson, Edward D., FV3188791.
Mielke, Donald J., FV3166461.
Miller, James B., FV3166234.
Miller, Warren C., FV3188207.
Milner, Gilbert C., III, FV3166401.
Moon, Elliott C., FV3165979.
Moore, William J., FV3167029.
Morris, William D., Jr., FV3166738.
Moseley, John C., FV3166848.
Mosman, John O., FV3166235.
Murray, Arthur J., FV3200459.
Norenberg, Michael D., FV3200679.
Ogorman, Thomas M., Jr., FV3142940.
Orlet, Hermann K., FV3185346.
Pala, Stanley J., FV3185494.
Parris, Fred N., FV3202614.
Pearce, Ronald G., FV3166240.
Petersen, Richard J., FV3166221.
Peterson, Francis K. D., Jr., FV3199367.
Pike, Benjamin F., FV3165047.
Powell, Jerry R., FV3200587.
Rather, Edwin P., FV3184759.
Ray, John W. C., FV3164482.
Reed, Robert G., FV3165992.
Robinson, William A., Jr., FV3184667.
Roby, Milton L., FV3166914.
Schecter, Lawrence M., FV3165977.
Schimke, Thomas H., FV3164756.
Schultz, Arthur F., FV3165994.
Shiesl, Jon A., FV3164483.
Simerville, James J., FV3166847.
Simpson, Thomas J., FV3166220.
Singal, Sheldon, FV3184046.
Smith, Lane F., FV3166678.
Smith, Melvin D., FV3166225.
Staker, Lynn L., FV3166407.
Sutton, George S., FV3167075.
Tarleton, Harold L., FV3164604.
Tomasovic, Jerry J., FV3142151.
Totard, Ralph J., FV3184864.
Towler, Henry H., Jr., FV3188792.
Trabalsantos, Jose F., FV3164797.
Truell, John E., FV3184605.
Waller, John A., FV3141473.
Ware, Robert E., FV3164611.
Watters, John A., Jr., FV3184952.
Webb, John R., FV3202129.
Wesche, David H., FV3164612.
Whelchel, John D., Jr., FV5316542.
Wilder, Thomas C., Jr., FV3184978.
Willard, James E., FV3167221.
Williams, Larry R., FV3166402.
Williams, Richard P., Jr., FV3164484.
Zielnski, John J., FV3185833.

To be captains (Dental)

Andrews, Sidney D., FV3142705.
Frederickson, Daniel, FV3142424.
Large, David C., FV3165105.
Meyer, Asher M., FV3165209.
Plies, Stanley M., FV3142556.
Rhea, Joseph C., FV3124842.
Riley, Guy L., FV3142645.
Sellers, William R., FV3141472.
Zizza, Paul F., FV3165167.

To be first lieutenants (Dental)

Bellanca, Paul M., FV3142471.
Blasetti, Angelo B., FV3021667.
Brigleb, Richard C., FV3142351.
Brooks, Keith A., FV3188559.
Couture, Paul P., FV3166252.
Donahue, Robert L., FV3187967.
Duncan, Walter J., FV3164444.
Fazio, Louis J., FV3143138.
Ferland, Norman G., FV3142641.
French, Davy A., FV3142749.
Herbold, Edward T., FV3141599.
Kelley, Charles D., FV3142902.
Kleinstub, Paul H., FV3188689.
Knowles, Kenneth I., FV3165331.
Koutnik, Alfred W., FV3143086.
Matranga, Luke F., Jr., FV3188190.
Maxwell, Terrence J., FV3142673.
Meade, Thomas E., FV3142479.
Moskowicz, Donald G., FV3168411.
Murrin, David E., FV3142264.
Nied, Lawrence F., FV3142664.
Schmidt, Frederick J., FV3164842.
Strohaver, Robert A., FV3142270.
Studt, Kurt H., FV3142198.
Tanaka, Marvin M., FV3142766.
Thouvenot, Ronald G., FV3142734.
Tinkler, Michael R., FV3142205.
Walsh, William F., Jr., FV3141633.
Weinman, Morris L., FV3141590.

To be captains (Nurse)

Abbott, Doris, M., FV3112733.
Baumgartner, Julie A., FV3112847.
Bois, Charles J., FV3091966.
Connor, Willie J., FV3112666.
Dove, Haven L., FV3112837.
Driver, Lola A., FV3112777.
Lynch, Sally S., FV3112438.
Michelena, Betty K., FV3112628.
Nelms, Patricia M., FV3112852.
Samsel, Gloria A., FV3112668.
Six, Sarah M., FV3113189.
Tankersley, Mary A., FV3112532.
Vierra, Rettie J., FV3112502.
Wright, Marion M., FV3112661.

To be first lieutenants (Nurse)

Allen, Carlton R., FV3127439.
Auvil, Mary L., FV3164923.
Baggett, Margaret D., FV3187189.
Barclay, Helen R., FV3091936.
Beahan, Alice L., FV3143271.
Bennett, Bettye J., FV3200536.
Bernard, Carolyn F., FV3200547.
Bishop, Mary E., FV3185458.
Blouch, Sandra K., FV3164677.
Blumette, Mary A., FV3167719.
Bradley, Eileen C., FV3185964.
Brinson, Phyllis A., FV3184418.
Brossett, Collin K., FV3199478.
Bullard, Willis G., FV3199450.
Busch, Jerilyn A., FV3184681.
Byrk, James C., FV3122948.
Campbell, Gertrude M., FV3167903.
Cantabene, Elaine R., FV3167834.
Carner, Antoinette, FV3167103.
Case, Paula A., FV3142607.
Casey, Kathleen F., FV3143121.
Castleberry, Mary B., FV3188881.
Chabot, Michelle M. J., FV3168148.
Chenoweth, Theresa E., FV3061953.
Chisholm, Margaret M., FV3167839.
Cogburn, Bobby E., FV3188103.
Collier, Lynda R., FV3200370.
Conley, Shirley M., FV3140630.
Corrado, Vivien P., FV3167130.
Cox, Roberta C., FV3200931.
Daly, Patricia M., FV3168703.
Darrell, Chester A., Jr., FV3188380.
Deem, Cynthia M., FV3164548.
Dixon, Abby J., FV3185386.
Donahue, Joanne T., FV3167076.
Doyle, Ruth M., FV3184901.
Dunham, Gail R., FV3185790.
Edwards, Robert A., FV3114106.
Fadusko, Jeanne A., FV3187043.
Fegan, Geraldine E., FV3167685.
Fletcher, Mary K., FV3200362.
Forsyth, Joan E., FV3199377.
Foss, Robert E., FV3185341.
Fritts, Mary C., FV3142531.
Gartside, Leona G., FV3144681.
Geberl, Helen H., FV3166381.
Gilboy, Mary E., FV3167560.
Giuliani, Anita M., FV3114124.
Goulden, Bonnie E., FV3185073.
Grundberg, Helen I., FV3092357.
Haluska, Lois A., FV3184401.
Harrison, Connie E., FV3167930.
Harrison, Laquita A., FV3167001.
Haughey, Susan R., FV3200840.
Henrikson, Geraldine A., FV3185484.
Herron, Mary E., FV3167837.
Hildebrand, Anne C., FV3114295.
Hinze, Elizabeth A., FV3185284.
Hodges, Jacquelin B., FV3167902.
Hohman, Frances C., FV3167730.
Hoskin, Diane J., FV3167504.
Hudson, Tommie J., FV3167606.
Jason, Marie E., FV3184985.
Jewell, Jean A., FV3200611.
Jones, Frances P., FV3200111.
Jones, Russell T., FV3114278.
Keebler, Margaret M., FV3184227.
Kefurt, Patricia A., FV3184903.
Kiszonak, Loraine E., FV3167142.
Kovacs, Marie C., FV3166353.
Kramer, Mary A., FV3200662.
Kucinkas, Chris M., FV3188625.
Kuroly, Barbara E., FV3166383.
Lagasse, Linda M., FV3185185.

Lambert, Margaret A., FV3166775.
Laorange, Brenda J., FV3143783.
Latham, Bessie W., FV3111950.
Laws, Juanita M., FV3166671.
Lazo, Joan A., FV3164560.
Leffel, Mary S., FV3141324.
Leune, Sandra, FV3200235.
Lichtenwalner, Ann D., FV3199437.
Luttman, Phyllis A., FV3112222.
Maier, Janet T., FV3186951.
Maley, Helen A., FV3126721.
Maley, Mary F., FV3126747.
Manucy, Judith M., FV3166574.
Marino, Mary L., FV3168065.
Martinez, Hilario D., FV3167316.
Matas, Irene M., FV3168417.
Matt, Lois A., FV3142681.
McCauley, Helen M., FV3188830.
McShea, Irene I., FV3184883.
Miller, Linda B., FV3184020.
Mulligan, Patricia G., FV3123010.
Mullin, Barbara A., FV3168151.
Nolan, James P., Jr., FV3126590.
O'Donnell, Madge M., FV3143617.
O'Neill, Kathleen E., FV3200144.
Osha, Patricia J., FV3168320.
Pantel, Anna M., FV3113346.
Parker, Mary F., FV3113883.
Patry, Monita A., FV3123023.
Peake, Ruth A., FV3126574.
Pearce, Hilda G., FV3187681.
Pegg, Rosalie E., FV3186220.
Perry, Juanita, FV3168530.
Piccone, Joseph Salvatore, FV3188303.
Porter, Patricia A., FV3167481.
Prather, Joan J., FV3167684.
Rasmussen, Nola J., FV3114019.
Reed, Mary E., FV3185405.
Reich, Ila R., FV3141945.
Reichenbach, Georgianna, FV3184673.
Riggs, Carolyn K., FV3142484.
Roarty, Sara R., FV3185170.
Rogers, Bonnie P., FV3184218.
Roginski, Barbara A., FV3184131.
Roller, James F., Jr., FV3114236.
Rosenbery, Nancy J., FV3167683.
Roth, Sandra K., FV3166510.
Ruddy, Mary L., FV3123081.
Salmons, Freddie E., FV3188783.
Scharver, Joyce M., FV3169039.
Schneider, Carolyn A., FV3114627.
Schneider, Sharon J., FV3199542.
Scorsone, Peter G., FV3188056.
Segall, Shirley J., FV3111800.
Shaver, Barbara Ann, FV3186085.
Shelor, Janice L., FV3168747.
Shelton, Sandra S., FV3188159.
Smith, Janice E., FV3113545.
Sparacino, Maria S., FV3123004.
Splawn, Eunice E., FV3113571.
Steffes, Barbara D., FV3113079.
Stillwell, Patricia J., FV3168227.
Stratton, Maureen, FV3143742.
Strauss, Nancye E., FV3184871.
Stubbs, Linnie M., FV3113187.
Suzuki, Hana J., FV3164566.
Swearingen, James L., FV3140159.
Swetman, Margaret L., FV3114022.
Tank, Catherine A., FV3199405.
Taylor, Leah L., FV3184487.
Terpstra, Carol J., FV3200768.
Tindall, Nancy R., FV3164919.
Todd, Dorothy D., FV3123131.
Treffinger, Mary E., FV3167842.
Turner, Sue E., FV3168106.
Ungerbuehler, Marie E., FV3184910.
Vanpelt, Roberta J., FV3187907.
Voigt, Paula A., FV3114080.
Wahl, Marilyn J., FV3143775.
Walsh, Mary C., FV3166779.
Watkins, Sylvia A., FV3166918.
Weaver, Pamela S., FV3185084.
Wegmann, Diane A., FV3167008.
Wells, Elinor J., FV3184129.
Wenzel, Sandra, FV3199185.
Whitcomb, Elizabeth J., FV3199209.
Whitley, Rita J., FV3113743.
Wildner, Judy M., FV3168573.
Williams, Josie R., FV3165384.
Williford, Janice M., FV3186226.
Wolf, Carol A., FV3167325.
Wood, Florence E., FV3188479.
Yanno, Richard G., FV3186480.
Zumbrun, Sara A., FV3167425.
Zygula, Barbara A., FV3200846.

To be second lieutenants (Nurse)

Rinne, Michael S., FV3201019.

To be captains (Veterinarian)

Bradbury, Richard P., FV3113962.
Brown, Richard J., FV2205190.
Buckhold, Delwin K., FV3114396.
Eason, Robert L., FV3125245.
McKinney, Hubert E., FV3078697.

To be first lieutenants (Veterinarian)

Burns, Lonnie J., FV3166827.
Butts, Donald W., FV3166278.
Clark, Keith A., FV3166263.
Cordts, Robert E., FV3187943.
David, Tony D., FV3184793.
Doherty, John J., FV3017821.
Griffin, Ralph E., Jr., FV3141584.
Irving, George W., III, FV3185558.
Kirk, John H., FV3184856.
Marshall, George R., FV3188225.
May, James O., FV3164535.
Moore, Frank L., FV3167203.
Rogers, James E., FV3185579.
Rumph, Paul F., FV3188443.
Slemons, Richard D., FV3184859.
Smith, Harold M., Jr., FV3199178.
Thalken, Charles E., FV3167404.
Thomas, Manuel A., Jr., FV3141896.
Toft, John D., II, FV3184330.
Watters, John W., FV3185122.
Wiesenfeld, David S., FV3141598.

To be captains (Medical Service)

Collom, James D., FV3030969.
Corum, B. H., FV3052489.
Dey, Doyle D., FV3079545.
Fletcher, Kenneth E., FV3101222.
Garron, Leonard J., FV3032565.
Harman, George W., FV3008695.
Harrington, Patrick C., FV3101091.
Hentz, David E., FV3056402.
Holley, Robert C., FV3078779.
Kaplan, Burton, FV3032776.
King, James M., FV4070775.
Lund, Richard A., FV3043291.
Morgan, Josephine A. L., FV3001891.
Morton, James I., FV3091804
Powell, George F., Jr., FV3091535.
Rosenbaum, Samuel F., FV2239043.
Small, Arthur H., FV3042545.
Stewart, Charlie E., Sr., FV3079129.
Vervena, Anthony H., FV3113165.

To be first lieutenants (Medical Service)

Basa Elpedio, FV3141458.
Baver, Henry W., FV3156201.
Beaty, John R., FV3167576.
Bishop, Willard V., Jr., FV3108584.
Blalock, Franklyn T., III, FV3118938.
Boune, Donald G., FV3129425.
Bryan, Ralph J., FV3140792.
Carota, Richard J., FV3154707.
Dotson, Terrence J., FV3166983.
Erwin, Bobby D., FV5413020.
Fincher, James C., Jr., FV3167367.
Giovale, Joseph J., FV3114561.
Griffin, Richard W., FV3142111.
Herndon, David H., FV3090028.
Hummer, Robert J., FV3142821.
Johnston, Hubert L., FV3078430.
King, James L., FV3127035.
Krewson, Charles F., III, FV3167124.
Lembke, Russell W., FV3157846.
Leslie, James D., III, FV3156208.
Leuthold, Peter P., FV3166139.
Madory, James R., FV3162548.
Milkevitch, Joseph J., FV3145314.
Morrison, Charles W. B., FV3104751.
Nelson, Steven P., FV3166500.
Noidurft, Norman E., FV3156016.
O'Connor, Daniel W., FV3141296.
Olmo, Herbert, FV3167714.
Palazzo, Eugene A., FV3107239.
Parimucha, Joseph P., FV3112682.
Poston, Thomas D., FV3167537.
Prather, Robert J., FV3167516.
Renn, Benjamin C., FV3184298.
Rheinscheld, John H., FV3164810.
Richey, Wayne L., FV3141725.
Slepicka, James H., FV3126406.
Snyder, Morris K., FV3156983.
Solesbee, Billy R., FV3162012.
Upton, Charles R., FV3144646.
Wilson, Edward W., FV3126623.

To be second lieutenants (Medical Service)

Ashkenase, Donald L., FV3174510.
Bateman, Val J., FV3176834.
Bates, Thomas G., FV3170981.
Bloomquist, Carroll R., FV3172653.
Bristow, Charles L., FV3161347.
Brown, Charles W., III, FV3199417.
Buchholz, Roger J., FV3200411.
Chappelle, Ray J., Jr., FV3176425.
Christiana, Ronald W., FV3183714.
Collins, Ben A., FV3185051.
Copeland, Billy M., FV3184811.
Dick, William W., FV3177117.
Dikes, James E., FV3172982.
Driver, David C., FV3161358.
Drummond, Robert D., FV3153308.
Elliott, David J., FV3185344.
Fisher, Richard L., FV3164615.
Forister, Thomas C., FV3177324.
Garcia, Joe, FV3199508.
Gherardini, Michael M., FV3157732.
Granat, Pete M., FV3188652.
Gurewitz, Barton I., FV3187751.
Harrison, James T., FV3175830.
Kaigler, James S., FV3173714.
Knauss, Albert C., FV3185234.
Knight, Jimmy M., FV3199524.
Leyba, Guillermo, FV3185713.
Lindsey, Garold D., FV3172900.
McCausland, Orrin J., FV3173595.
McMullen, Malcolm, FV3200361.
Moore, Michael D., FV3199588.
Nash, George W., FV3172684.
Petermann, Mark H., FV3176964.
Phill, Charles Michael, FV3186958.
Raynor, Richard R., FV3200529.
Wilson, Ira D., FV3181043.
Winfree, Robert G., FV3175707.
Zagelow, Stephen P., FV3186905.
Zahradka, James F., FV3177284.

To be first lieutenants (Biomedical Science)

Cassella, Michelina C., FV3200996.
Chambers, Mildred J., FV3168060.
Davidson, Donald A., FV3168152.
Hammond, John M., FV3166864.
Kaylin, Bernice M., FV3185192.
Maclean, Douglas M., FV3186838.
Malloney, Ronald H., FV3168443.
Marshall, Ann M., FV3186952.
McConnell, Ann W., FV3200279.
Meyer, Barbara A., FV3184721.

To be second lieutenants (Biomedical Science)

Adams, Ernest D., Jr., FV3170531.
Aumueller, Robert J., FV3174522.
Brannon, Larry D., FV3185711.
Campbell, James W., FV3183709.
Cardosa, Albert J., FV3183710.
Clegern, Robert W., FV3171480.
Cobb, Russell W., III, FV3190490.
Dreis, James A., FV3154868.
Hinchman, Max F., FV3172376.
Hughes, Robert O., FV3183817.
Jones, Gerald W., FV3169003.
Kamm, Steven D., FV3171183.
Kilian, John P., FV3172804.
Loper, Daniel C., FV3130433.
McLean, Jerry A., FV3185048.
Miller, Stephen A., FV3155831.
Nedrow, James L., FV3185049.
Ricker, Philip Redding, FV3187992.
Tykocki, David M., FV3185164.

The following distinguished graduates of the Air Force Officer Training School for appointment in the Regular Air Force in the grade of second lieutenant, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

Abts, Bruce M., FV3206546.
Allocca, Richard, FV3206079.
Arnold, Robert C., FV3208777.
Bergman, Donald J., FV3221315.

Bergstedt, Robert C., FV3208029.
Bergstrom, Larry J., FV3222763.
Blake, John A., FV3222937.
Bliss, John S., FV3222058.
Braasch, Gary B., FV3207698.
Brendler, Charles B., FV3222124.
Brogan, Dennis M., FV3209394.
Brown, Frank B., Jr., FV3207166.
Cullen, Frederic M., FV3222457.
Cuplin, Dean P., FV3205614.
Dalton, James D., FV3222401.
Ellett, Jack B., FV3221183.
Elmore, Robert W., FV3222197.
Falla, William S., Jr., FV3206268.
Gerson, Stuart M., FV3180037.
Heidlage, Richard C., FV3207957.
Hobart, Harold M., Jr., FV3205805.
Hough, Richard F., FV3208102.
Hunt, Alan G., FV3208228.
Krieger, Lawrence S., FV3220834.
Lage, Jerry L., FV3221004.
Littler, Gregory A., FV3221792.
Logan, Fred A., FV3208226.
Lomax, Harvard L., FV3222015.
Marks, Mary A., FV3205995.
McConaghy, Lee J., FV3207393.
McKellar, Milton L., FV3208603.
Patterson, Brian L., FV3207245.
Power, Donald R., FV3221895.
Seyler, Martin L., FV3206564.
Snay, Nicholas J., FV3206803.
Snyder, Thomas J., FV3221769.
Stark, Thomas M., FV3207927.
Swanson, Robert J., FV3221677.
Vouri, Francis A., FV3207943.
Walker, John P., FV3205569.
Walling, Ronald E., FV3180700.
Watson, Frederick E., FV3209261.
Wheeler, Wayne K., Jr., FV3221567.
Woodsmall, Richard A., FV3207333.

IN THE ARMY

The following-named Medical Corps officers for temporary appointment in the Army of the United States to the grades indicated under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general, Medical Corps

Brig. Gen. Glenn Jesse Collins, O22687, Army of the United States (colonel, Medical Corps, U.S. Army).

To be brigadier generals, Medical Corps

Col. Spurgeon Hart Neel, Jr., O58688, Army of the United States (lieutenant colonel, Medical Corps, U.S. Army).

Col. William David Tigertt, O26412, Medical Corps, U.S. Army.

Col. Hal Bruce Jennings, Jr., O26995, Medical Corps, U.S. Army.

The following-named officers for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306:

To be brigadier generals, Medical Corps

Brig. Gen. Glenn Jesse Collins, O22687, Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. Kenneth Dew Orr, 031042, Army of the United States (colonel, Medical Corps, U.S. Army).

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3305:

To be colonel

Gagarine, Alexis M., O24153.

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States code, sections 3284 and 3299:

To be lieutenant colonels

Crowder, Thomas H., O62178.
Irwin, Kenneth G., O66165.
Marshall, David S., O63288.

To be majors

Amaki, Satoru, O81367.
Atwood, James P., O88556.
Beaube, George P., O74635.
Gone, Eugene B., O71331.
Hattaway, William E., OF110271.
Hobbs, Donald I., O73101.
Willis, William J., OF110477.

To be captains

Castleman, Robert J., OF102155.
Hawkins, Joseph W., OF110272.
Hunt, James P., OF103541.

IN THE ARMY

The following-named officer for appointment as Director of Admissions and Registrar, U.S. Military Academy, under the provisions of title 10, United States Code, sections 3075, 3205, and 4333:

Rogers, Manley E., O62333.

The following-named persons for appointment in the Regular Army, by transfer in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be captains

Kennedy, Bruce, O77503.
Rose, Walter C., OF108285.

To be first lieutenant

Lobingier, John H., O99907.

The following-named persons for appointment in the Regular Army or the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294, and 3311:

To be majors

Cross, Howard T., O2264525.
Hoffman, Harry C., III, O191917.
Rowan, Joseph C., O995958.
Tuggle, Lewis M., O4031188.
Webb, Robert, Jr., O2264627.
Zion, Robert B., O4013962.

To be captains

Ackermann, Henry F., O2309316.
Alutius, Joseph F., Jr., O2311457.
Andrews, Joel E., O5306888.
Baeza-Muniz, Carlo, O5826811.
Baird, Norval E., O5206886.
Banning, Raymond D., O5312092.
Bischoff, Robert C., O5235569.
Blecher, Kenneth W., O2313122.
Blumer, Robert B., O5330326.
Boyce, David G., O968427.
Boyle, Rodger W., O4074363.
Brice, Donald A. L., O5310972.
Broering, Leo F., O5238676.
Burbank, David M., O5235279.
Chamlian, Dikran L., O5711916.
Clark, William E., Jr., O5344929.
Condon, John L., Jr., O5328655.
Cowden, John W., O2316882.
Cox, Charles H., O2304728.
Cremer, Jerry L., O5400709.
Dillon, Alfred M., O1889705.
Dixon, William L., O2313144.
Dwyer, William J., Jr., O5311585.
Easley, Howard A., O5306569.
Evert, Gerd O., O5315083.
Fox, Lonald J., O5540009.
Gamino, John M., O5409794.
Grenz, Clinton E., O5501560.
Hall, Glenn P., O2277551.
Hill, Washington C., O5217243.
Hudson, Thomas J., O2312602.
Hutchens, James M., O5407551.
Johnson, Robert L., O5303642.
Kahle, Richard E., O5219144.
Kandul, Thomas S. Jr., O5330639.
Keutzer, Walter J., O2317332.
Keys, David N., O5230900.
Kraak, Peter J., O5203609.
Lord, Billy R., O5408759.
Marchbanks, Joseph A., O1885864.
McGlockton, William, O5302187.
Mears, Douglas T., O217138.
Miles, Philip A., O5024605.
Miller, Thomas L., O2317429.
Misetich, Dorothy A., N902227.
Murphy, Charles E., O5304709.
Nicholson, Allison L., O2028349.
O'Brien, Charles A., O5005406.
Orms, Robert J., O5307512.
Peak, Benson W., O2321395.
Prater, George F., O5301551.
Rowe, Martin A., O4049631.
Sandlin, Johnny G., O5875215.
Saunders, Robert E., O5301488.
Schecter, Arnold J., O5255689.
Selph, Justus P., O2309098.
Smith, William T., O5319668.
Speicher, Vernon L., O4018430.
Sturgis, Ralph M., O4071394.
Taylor, Robert D., O5213797.
Turnbull, Gottlieb L., O5518146.
Turner, Trevor D., O1891451.
Van Lith, Rita W., N5217193.
Wildoner, Bernard E., MN805782.
Woodbery, Jerry M., O2313296.
Yrjanson, Robert E., O5513314.

To be first lieutenants

Andersen, Arne, O5312235.
Beal, Richard H., O5413578.
Berard, Nancy V., L2321531.
Berry, John M., O5221574.
Bickel, Arthur S., O2325867.
Bolling, David R., Jr., O5417715.
Bowes, Steven G., O5418858.
Brady, Noel P., O5011008.
Brinkley, Jimmie T., O5411865.
Burger, James A., O5023855.
Caldwell, Milton L., O5322869.
Caruso, James R., O5215568.
Cavanaugh, Michael A., O5423090.
Chandler, Rual M., Jr., 02314510.
Christopher, Edwin A., O5225401.
Christy, William B., O5532548.
Coakley, Stephen, O5320438.
Collins, John T., O5319121.
Crisanti, Lawrence I., O5228879.
Cuprill, Charles A., O5826706.
D'Angelo, Joseph S., O5325075.
Danese, Richard, O5023148.
Daniel, Ajalon E., III, O5332859.
Davis, Carl E., MR2309112.
Davis, James A., O5312020.
Davis, Montague E., Jr., O5535822.
Davis, William J., O5229182.
Felder, Jerry W., O5416849.
Fleisch, James G., O5241616.
Fleming, Harry S., O5532934.
Foley, James D., O5024177.
Fowler, Orville E., Jr., O5412258.
Gill, Howard A., Jr., O5415282.
Gisla, John F., O5713322.
Giuntini, Peter A., O5022842.
Goldberg, Norman L., O5229464.
Grines, Joseph M., O5228645.
Gronski, Henry W., O5712024.
Handelsman, Lawrence, O5021231.
Hayes, Robert P., O5012257.
Herbert, Clarke E., O5713364.
Hilliard, Donald M., O5414870.
Huddleston, Helen A., N5701649.
Jablonski, Robert C., O2332040.
Johnson, Richard S., MN2309302.
Kallunki, John T., O5318515.
Kane, Philip C., O5706889.
Karlson, Henry C., O5536081.
Kauffman, Richard W., O5418890.
Kennedy, John P., O5012120.
King, Delbert G., O2299308.
Kinney, Charles E., O2302453.
Knoll, David D., O5232022.
Kristl, Timothy O., O5536064.
Lane, John F., O5531986.
Larson, Stuart A., O5514518.
Leavens, Frank A., O5325576.
Lenhart, Michael E., O5222634.
Leonard, Lawrence C., MN5422201.
Lovisone, Richard E., O5019603.
Lukas, John F., O5017218.
McClintock, Kenneth, O5535331.
McConnell, John J., O5010898.
McDowell, Robert M., O5218180.
Milne, William J., O5021367.
Mitchell, Wayne H., O5330571.
Mize, William F., Jr., O5219560.

Murdoch, James W., O5022869.
Murphy, William J., Jr., O5315393.
Myrland, Eric H., O5225542.
Newkirk, Louis T., Jr., O5321313.
Oliver, Council W., O5323062.
Olson, Roger B., O5702079.
Parkinson, Thomas D., O5254976.
Parry, William H.
Prescott, Daniel J., O5010230.
Piram, Joseph A., O5414257.
Price, Martin L., O5419225.
Pritikin, Frederick, O5406688.
Proctor, Robert C., Jr., O5313537.
Rackovan, John Jr., O5329564.
Rego, Anson O., O5711214.
Roberts, Marvin B., MN2312618.
Rowe, David H., O5220365.
Schrader, Stanley A., O5013569.
Scott, Charles R., O5532341.
Seaborn, Donald J., O5316965.
Selzer, Robert A., O5021017.
Silva, Guillermo R., O5826690.
Silva, Manuel J., O2321122.
Smith, Edgar A. P., Jr., O5234267.
Smith, Walter A., III, O5228675.
Smullen, Frederick W., O5013571.
Snuffer, Garner D., O5312479.
Southard, Ralph C., O5320083.
Sprague, Michael D., O5517162.
Staiti, Peter F., O5023297.
Stevens, Winfred A., O5002763.
Stillman, Jon C., O5514459.
Stull, Joseph E., O5417007.
Sullivan, Robert B., O5535659.
Thomas, Trent N., O5710663.
Tredennick, Steven, O5418401.
Wagner, Anita A., N5417259.
Wascom, Charles L., O5412918.
Webb, Dois D., O5416765.
Weitzel, Kenneth P., O5315175.
Welch, James C., O5328026.
Wert, Robert C., O5230926.
Willard, William B., O5211878.
Williams, Reeve N., O5419006.
Willis, Phillip L., O5516475.
Winn, Burke S., O5225658.
Winton, Edward L., O5317566.
Yaus, William S., O5235498.

To be second lieutenants

Barker, Franklin T., O2325361.
Bell, Clyde H., Jr., MJ2328803.
Busch, Robert J., O5328056.
Conroy, Bruce, O5337224.
Conroy, Richard A., O5336118.
Damato, James J., O5020264.
Dicey, Bruce B., O5519732.
Donaghe, Robert E., O5418665.
Donovan, Jack R., Jr., O5336628.
Eastman, Robert J., O5537069.
Edgerton, Thomas J., O5241761.
Fagersten, James R., O5331732.
Gill, Robert L., O5421418.
Haney, Richard J. II, O5535037.
Hull, Richard E., Jr., O5012147.
Imes, James D., O5327715.
Jenkins, James G., O5230278.
Lyons, Joseph F., O2325955.
Maurice, Timothy P., O5229716.
McCloskey, Robert E., O5419644.
McWherter, Michael, O5421348.
Murphy, James R., O5419983.
Pettera, Mary L., N2323927.
Rondiak, Peter F., O5230053.
Shook, John R., O5327121.
Stafford, Fenley D., O5340790.
Starr, Melvin T., O5331524.
Throckmorton, Edward, O5329444.
Whittle, Claude N.,O5240925.
Willoughby, Lonny R., O5337340.

The following-named distinguished military students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under the provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290:

Ahders, Arnold W.
Alba, Abelardo J.
Alberston, Bernard G.
Bagby, Buford R.
Baker, Sidney F., Jr.
Benedetto, Anthony R.
Bennis, William J.
Black, Jerry W.
Bongiorni, Dominic R.
Braun, Gerald J.
Brewer, John A.
Brown, Roger F.
Chase, Michael S.
Chasler, Charles D.
Claxton, James D.
Clemens, Roger L.
Clements, Willis L.
Coley, Thomas E., Jr.
Conn, James D.
Cooch, Robert L., Jr.
Dantone, Joseph D., III
Davis, Mark W.
Dess, William J.
Elfner, Alan G.
Erickson, Kenneth L.
Farmer, Emmett R., Jr.
Fletcher, John E.
George, Gary B.
Gibbons, Robert H.
Glendon, John W.
Griffin, James K.
Gwinn, Richard A.
Harvey, William M.
Hawley, Richard F.
Hill, John E.
Hinton, James F.
Hooks, Narmon D.
Hyatt, Scott W.
Jansen, Donald R.
Kraft, Kenneth M., Jr.
Krull, Erwin J.
Kuhn, Donald L.
Kyser, Perry L.
Lampkin, Edgar T., Jr.
Lehtinen, Dexter W.
Linn, Charles M.
Mazurka, Steven J.
Melsek, Rodney R.
Monk, John T.
Nickoley, Loren D.
Olds, Bowman M.
Pfannerstill, Charle
Price, Steven M.
Rossow, Michael J.
Sawyer, David L.
Scherer, Ronald D.
Smith, Michael C.
Stees, Ray R.
Stewart, Peter H.
Stowers, Dan W.
Stulgaitis, Paul F.
Swearengin, Don A.
Terry, Ronald R.
Tewalt, Ronald J.
Tolliver, Edmund R. Jr.
Voyles, Wilford, C., Jr.
Vybiral, Thomas J.
Whitacre, Charles J.
Williams, Henry N.
Withrow, John A.
Wood, Leslie G.
Wylly, Robert L., III

The following-named scholarship students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2107, 3283, 3284, 3286, 3287, 3288, and 3290:

Gregg, David F.
Napoliello, David A.

IN THE NAVY

The following-named officers for appointment on the retired list to the grades indicated in accordance with the provisions of title 10, United States Code, section 5233:

Admiral

Adm. Alfred G. Ward, U.S. Navy.

Vice admiral

Vice Adm. William E. Ellis, U.S. Navy.
Vice Adm. Alexander S. Heyward, Jr., U.S. Navy.

IN THE MARINE CORPS

Having designated, in accordance with the provisions of title 10, United States Code, section 5232, the following-named officers for commands and other duties determined by the President to be within the contemplation of said section, I nominate them for appointment to the grade of lieutenant general while so serving:

Frank C. Tharin.
Lewis J. Fields.

The following-named women officers of the Marine Corps for appointment to the grade of colonel, subject to qualification therefor as provided by law:

Barbara J. Bishop.
Jeanette I. Sustad.

IN THE MARINE CORPS

The following named (U.S. Naval Academy graduates) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Anderson, Joseph T.
Beard, David C.
Bolden, Charles F., Jr.
Brosee, Michael O.
Brown, Jack P.
Burkhart, Michael W.
Cadman, Conrad H.
Carlock, Reid O.
Carter, Roy L.
Cimaglia, Louis E.
Collins, William T.
Cummings, Michael J.
Dalton, John F.
Danaher, Stephen J.
Degnan, Peter M.
Denson, David K.
Dittmar, Charles A., Jr.
Donaldson, William I., Jr.
Donofrio, Charles R.
Dugan, Dennis E.
Ellis, Patrick N.
Farmer, Paul C.
Floom, Marvin H., Jr.
Glantz, Richard E.
Golich, John X.
Gregson, Wallace C., Jr.
Hagee, Michael W.
Hammer, Richard D.
Hammons, Stuart D.
Harper, Thomas F.
Harris, George K.
Hickinbotham, Robert T.
Holly, John J.
Jones, James D.
Kalashian, Michael A.
Klimp, Jack W.
Larsh, Ivan G.
Lohman, Charles M.
Lohr, David M.
Malmgren, Ronald A.
Marien, Richard J.
Marlin, Jeffrey A.
McDaniel, Scott E.
McKay, John C.
Medley, Anthony R.
Morschauser, Michael C.
Mrozak, Leonard J.
Murray, Curtis W., Jr.
Murray, Terrence P.
Nacrelli, Martin J.
Nelson, Garry D.
Noel, Thomas E.
North, Oliver L.
O'Banks, Christopher C.
O'Connor, Bryan D.
Ogilvie, Malcolm L., Jr.
O'Neil, John F.
Palmer, William M., Jr.
Pease, George M.
Pelletier, Charles A.
Petersen, Thomas H.
Rauchle, Arthur J., Jr.
Reston, Victor F.
Roach, James H.
Roberts, Ray "A"
Robinson, Joe D.
Smith, Lawrence W., III
Splain, Mark S.
St. John, George F., III
Strouse, Robert D.
Sulick, Tom E., Jr.
Tardy, Thomas K.
Taylor, William M.
Treadwell, James N.
Treanor, Mark C.
Tucker, George E.
Valdez, Edwin R.
Vivilacqua, Theodore R.
Waniata, Roger P.
Ward, Buddy A.
Webb, James H., Jr.
Westcott, Charles T., Jr.
Wilson, Paul "E"
Woods, Thomas G.
Young, Fred J., Jr.

The following named (Naval Reserve Officers Training Corps) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Alexander, Charles B., III
Baldwin, George H., Jr.
Gonzales, Ronald J.
Graham, William J.
Ham, Roger C.
Jacobs, Roger A.
Marapoti, James A.
Phillips, Roy F.
Raderer, Norman D.
Sevi, Eugene A.

The following named (staff noncommissioned officers) for temporary appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Baumhover, Michael J.
Below, Jack W.
Jackson, Albert P.
Tigue, Michael J.

The following named (meritorious noncommissoned officers) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Hooper, John W.
Jones, Robert D.

The following named (Army Reserve Officer Training Corps) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Howland, John C.
Warren, William D.

The following named (U.S. Military Academy graduate) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Patrow, Michael L.

The following named (staff noncommissioned officer) for permanent appointment to the grade of first lieutenant as assistant director of the Marine Corps band, subject to the qualifications therefor as provided by law:

Kline, Jack T.

POSTMASTER

The following-named persons to be postmasters:

ALABAMA

Hoyt W. Self, Trafford, Ala., in place of A. E. Gray, deceased.

ARKANSAS

Allen H. Wilkerson, Cave City, Ark., in place of W. E. Carpenter, retired.

FLORIDA

Genevieve C. Kerrick, Islamorada, Fla., in place of J. C. Russell, retired.

INDIANA

Ralph E. Bowland, Amboy, Ind., in place of V. L. Stepler, retired.

Elmer R. Tekulve, Columbus, Ind., in place of C. E. Hull, retired.

IOWA

Raymond D. Showalter, Bettendorf, Iowa, in place of G. R. Helble, retired.

KANSAS

Roger C. Hastert, Garnett, Kans., in place of J. C. Bowman, deceased.

Francis W. Escher, Herndon, Kans., in place of K. M. Malone, transferred.

KENTUCKY

Roger B. Proffitt, Cave City, Ky., in place of E. P. Terry, retired.

James C. Walker, Water Valley, Ky., in place of Earl Bard, retired.

LOUISIANA

Edith H. Isgett, Gilbert, La., in place of Louise Townsend, retired.

MARYLAND

Woodward W. Abrahams, Jr., Port Deposit, Md., in place of S. S. Sentman, deceased.

E. Pierre Brehm, West Friendship, Md., in place of C. H. Thompson, retired.

MICHIGAN

Bole P. Centala, Posen, Mich., in place of Victoria Jesionowski, retired.

Arthur S. C. Waterman, Roseville, Mich., in place of N. C. Reindel, retired.

Edward R. Vaughan, South Haven, Mich., in place of R. E. Keithly, retired.

MINNESOTA

Oscar H. Krenzke, Lewiston, Minn., in place of H. H. Krenzke, retired.

Richard D. Culhane, Saint Charles, Minn., in place of V. R. Flint, deceased.

MISSISSIPPI

Gwendola Camp, Mantachie, Miss., in place of R. E. Pearce, retired.

Hubert L. Presley, Nesbit, Miss., in place of H. D. Wooten, retired.

MISSOURI

Smiley C. Herrin, Jr., Columbia, Mo., in place of O. W. Buescher, retired.

MONTANA

Ervin A. Powell, Polson, Mont., in place of J. R. Cramer, deceased.

NEW JERSEY

Thelma C. Folkner, Buttzville, N.J., in place of F. J. Folkner, deceased.

Joseph V. O'Mahoney, Summit, N.J., in place of R. M. Dunsmore, resigned.

Frank H. McNally, Jr., Wayne, N.J., in place of W. N. Clegg, deceased.

NEW YORK

Martha E. Butler, Montezuma, N.Y, in place of F. M. Jones, retired.

Woodrow F. DeVine, Pawling, N.Y., in place of Lachlan Thomson, resigned.

Lewis G. McMahon, Rifton, N.Y., in place of Lester McMahon, deceased.

Bernadt S. Oolie, Spring Valley, N.Y., in place of E. E. Wallace, deceased.

NORTH CAROLINA

Heyward W. Taylor, Hamlet, N.C., in place of E. B. Gunter, retired.

Jackson B. Jones, Madison, N.C., in place of J. B. Joyce, retired.

Joseph W. Phillips, Morganton, N.C., in place of C. C. Denton, retired.

NORTH DAKOTA

Albert A. Olson, Sentinel Butte, N. Dak., in place of P. G. Wagner, retired.

OKLAHOMA

Ual J. McMichael, Chandler, Okla., in place of E. E. Curry, retired.

Calvin Moore, Lindsay, Okla., in place of J. R. Henderson, resigned.

PENNSYLVANIA

Mary R. O'Connor, Heckscherville, Pa., in place of V. J. O'Connor, deceased.

Ferry E. Dysinger, Mifflintown, Pa., in place of J. R. Mingle, retired.

Michael J. Noone, Jr., Moscow, Pa., in place of J. M. Langan, retired.

Richard A. Pfeifer, Portersville, Pa., in place of A. E. Brenneman, retired.

George R. Tomko, Sharon, Pa., in place of J. L. O'Toole, transferred.

TEXAS

Frank T. Higgins III, Brackettville, Tex., in place of V. J. Couture, retired.

Maxwell Barkley, Hearne, Tex., in place of L. W. Martin, retired.

VIRGINIA

Edward F. Riggins, Hampton, Va., in place of H. H. Kimberly, Jr., retired.

WASHINGTON

Laura H. Harris, Connell, Wash., in place of A. C. Gehres, retired.

WISCONSIN

Jerome J. Zodrow, Princeton, Wis., in place of J. E. Wyse, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 22 (legislative day of May 20), 1968:

DEPARTMENT OF TRANSPORTATION

John E. Robson, of Illinois, to be Under Secretary of Transportation.

Stanford G. Ross, of New York, to be General Counsel of the Department of Transportation.

FEDERAL MARITIME COMMISSION

George Henry Hearn of New York, to be a Federal Maritime Commissioner for the term expiring June 30, 1973.

EXTENSIONS OF REMARKS

RESULTS OF THE 1968 PUBLIC OPINION POLL

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 22, 1968

Mr. HUNGATE. Mr. Speaker, nearly 27,000 persons in the Ninth District of Missouri recently expressed their views on major issues that we are considering in this Congress.

In completing my fourth annual questionnaire, 26,391 indicated they approve of their Congressman conducting a public opinion poll. I find such an enthusiastic response greatly encouraging at a time when the public opinion polls seem to have created their own "credibility gap." The questionnaire is a means of measuring opinion at a given time or, as Pollster Louis Harris said, "single snapshots at one point in time of a constantly moving picture." While the poll is not a scientific study of public opinion, it is an effective way of learning the thinking of some of the residents of the large and diverse ninth district.

I welcome all opportunities to communicate with the people I represent, through visits in my district and in Washington and through letters from citizens who wish to express their views on congressional matters.

The percentages are based on 26,523 replies. The results follow:

	Yes	No	No opinion
1. Do you favor increased Federal aid to local law enforcement agencies to combat crime?	66.6	29.9	3.2
2. Do you favor President Johnson's proposed 10 percent surtax?	20.8	74.3	4.5
3. Should restrictions be placed on foreign travel until our balance of payments position improves?	60.4	35.4	4.9
4. Do you favor open housing?	31.8	60.0	8.2
5. Do you favor Federal legislation to ban interstage mail order shipments and foreign imports of guns (but not require gun registration)?	54.8	40.3	4.9
6. Do you favor fixing Washington's Birthday, Memorial Day, Independence Day, and Veterans Day on Mondays so each can be observed over a 3-day weekend?	53.9	43.5	2.6

7. Do you approve of your Congressman conducting a poll such as this?

Of the 26,523, only 132 answered "No."

8. Insofar as our Vietnamese policy is concerned would you consider yourself: Hawk: 36.5; dove: 12.4; neither: 27.1; undecided: 24.0.

9. Where would you favor cutting spending to reduce pressure on the budget?*

Vietnam	24.3
Space and moon program	49.1
Aid to education	8.6
Foreign aid	88.9
Public works: Highways, waterways, and dams	11.4
Agriculture programs	25.6
Aid to cities	29.0
Antipoverty program	50.6
Beautification	65.9

*These figures total more than 100 percent because persons could indicate cuts in more than 1 area.

TECHNOLOGY AS A WAY OF LIFE

HON. HUGH SCOTT

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Wednesday, May 22, 1968

Mr. SCOTT. Mr. President, I invite the attention of the Senate to the excellent May issue of the Royal Bank of Canada Monthly Letter. It is an essay on the need for social adjustment to the rapid changes taking place as a result of technological development.

The essay is particularly relevant to the need of Congress to equip itself with the knowledge necessary properly to assess the consequences of breathtaking scientific and technological developments so that we can assure that they will be