By Mr. MAILLIARD (for himself, Mr. DON H. CLAUSEN, and Mr. BURTON of California):

H.R. 12320. A bill to authorize the acquisition of additional lands at Muir Woods National Monument in the State of California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PERKINS (for himself, Mr AYRES, Mr. THOMPSON of New Jersey, Mr. GERALD R. FORD, Mr. DENT, Mr. BELL of California, Mr. PUCINSKI, Mr. ERLENBORN, Mr. DANIELS of New Jersey, Mr. DELLENBACK, Mr. BRADEMAS, Mr. ESCH, Mr. O'HARA, Mr. STEIGER of Wisconsin, Mr. CAREY, Mr. WILLIAM D. FORD, Mr. HATHAWAY, Mrs. MINK, Mr. SCHEUER, Mr. MEEDS, Mr. BURTON of California, Mr. GAYDOS, Mr. POWELL, Mr. HANSEN of Idaho, and Mr. RUTH):

H.R. 12321. A bill to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes; to the Committee on Education and Labor.

By Mr. PODELL:

H.R. 12322. A bill to amend the Fair Packaging and Labeling Act to require the disclosure by retail distributors of unit retail prices of packaged consumer commodities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. POLLOCK:

H.R. 12323. A bill to amend the U.S. Fishing Fleet Improvement Act to provide increased construction subsidies, to permit the trade-in of, and allowance for, old fishing vessels, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. QUILLEN:

H.R. 12324. A bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to provide for the continued payment of supplemental annuities in accordance with present law; to the Committee on Interstate and Foreign Commerce.

H.R. 12325. A bill to amend section 610 of title 38 of the United States Code to extend hospital and domiciliary care for non-service-connected disability to veterans of service performed before January 31, 1955; to the Committee on Veterans' Affairs.

H.R. 12326. A bill to provide that disabled individuals entitled to disability insurance benefits under section 223 of the Social Security Act or to child's, widow's, or widower's insurance benefits on the basis of disability under section 202 of such act, and individuals in the corresponding categories under the Railroad Retirement Act of 1937, shall be eligible for health insurance benefits under title XVIII of the Social Security Act without regard to their age; to the Committee on Ways and Means.

By Mr. RARICK:

H.R. 12327. A bill to further define the jurisdiction of Federal courts in certain cases; to the Committee on the Judiciary.

H.R. 12328. A bill to further define the jurisdiction of U.S. courts in certain cases; to the Committee on the Judiciary.

By Mr. RHODES:

H.R. 12329. A bill relating to the interest rates on loans made by the Treasury to the Department of Agriculture to carry out the programs authorized by the Rural Electrification Act of 1936; to the Committee on Agriculture.

H.R. 12330. A bill to establish the calendar year as the fiscal year of the Government, and for other purposes; to the Committee on Government Operations.

H.R. 12331. A bill to provide that the President shall include in the budget submitted to the Congress under section 201 of the Budget and Accounting Act, 1921, an item for not less than $2 billion to be applied toward reduction of the national debt; to the Committee on Government Operations.

H.R. 12332. A bill to establish penalties for the operation of a motor vehicle between States by a person while his motor vehicle operator's license is suspended or revoked; to the Committee on the Judiciary.

By Mr. RIVERS:

H.R. 12333. A bill to amend the act of September 20, 1968 (Public Law 90-502), to provide relief to certain former officers of the Supply Corps and Civil Engineer Corps of the Navy; to the Committee on Armed Services.

By Mr. ROBISON:

H.R. 12334. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. TEAGUE of Texas:

H.R. 12335. A bill to amend section 1684 of title 38, United States Code, in order to provide for the measurement of an academic high school course; to the Committee on Veterans' Affairs.

By Mr. WATSON:

H.R. 12336. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by a taxpayer for the purpose of funding the higher education of his dependents; to the Committee on Ways and Means.

By Mr. COLLIER:

H.J. Res. 787. Joint resolution to authorize the President to proclaim the second Sunday in September of each year as "Bataan Day"; to the Committee on the Judiciary.

By Mr. FULTON of Pennsylvania:

H.J. Res. 788. Joint resolution to authorize the President to award appropriate medals honoring those astronauts whose particular efforts and contributions to the welfare of the Nation and of mankind have been exceptionally meritorious; to the Committee on Science and Astronautics.

By Mr. RARICK:

H.J. Res. 789. Joint resolution proposing an amendment to the Constitution of the United States relating to powers not delegated to the United States; to the Committee on the Judiciary.

By Mr. RHODES:

H. Res. 451. Resolution to amend rule XXI of the Rules of the House of Representatives; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

228. The SPEAKER presented a memorial of the Legislature of the State of Illinois, relative to the sharing of Federal tax revenues with the States, which was referred to the Committee on Ways and Means.

PETITIONS, ETC.

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

154. By the SPEAKER: Petition of Thomas Adams, Joliet, Ill., relative to impeachment proceedings; to the Committee on the Judiciary.

155. Also, petition of the Board of Supervisors, Cayuga County, N.Y., relative to taxation of State and local government securities; to the Committee on Ways and Means.

SENATE—*Monday, June 23, 1969*

The Senate met at 12 o'clock noon and was called to order by the Vice President.

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

Eternal Father, whose mercies are new every morning, deliver us now from the clash and clamor of the busy world without, from the pressure of daily duties within, and from the confusion of many voices that in the quiet solitude of our inmost hearts we may hear again Thy still small voice. Cross the inner threshold of our being, sensitize our consciences, grace our wills, steady our hesitant spirits, reinforce us in our labors, renew our faith in eternal things, and strengthen our resolution to serve Thee this day in spirit and in truth. Through Jesus Christ our Lord. Amen.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL AND JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on June 17, 1969, the President had approved and signed the following act and joint resolution:

S. 1995. An act to provide for the striking of medals in commemoration of the 150th anniversary of the founding of the State of Alabama; and

S.J. Res. 35. Joint resolution to provide for the appointment of Thomas J. Watson, Jr., as Citizen Regent of the Board of Regents of the Smithsonian Institution.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The VICE PRESIDENT 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.)

THE JOURNAL

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, June 20, 1969, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR UNDER RULE VIII

Mr. KENNEDY. Mr. President, I ask unanimous consent that the call of the calendar of unobjected to bills under rule VIII be waived.

The VICE PRESIDENT. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. KENNEDY. Mr. President, I ask unanimous consent that statements during the transaction of routine morning business be limited to 3 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. KENNEDY. Mr. President, I move that the Senate go into executive session to consider the nominations on the Executive Calendar, beginning with "New Reports."

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

The VICE PRESIDENT. The nominations on the Executive Calendar will be stated, beginning with "New Reports."

MISSISSIPPI RIVER COMMISSION

The assistant legislative clerk read the nomination of Maj. Gen. Andrew Peach Rollins, Jr., to be a member and President of the Mississippi River Commission.

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

CALIFORNIA DEBRIS COMMISSION

The assistant legislative clerk read the nomination of Col. Charles R. Roberts, Corps of Engineers, to be a member of the California Debris Commission.

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

Mr. KENNEDY. Mr. President, I ask that the President be notified of the confirmation of the nominations.

The VICE PRESIDENT. Without objection, it is so ordered.

LEGISLATIVE SESSION

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

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

AUTHORIZATION FOR APPOINTMENT OF ADDITIONAL DISTRICT JUDGES

Mr. KENNEDY. Mr. President, I move the Senate proceed to the consideration of Calendar No. 252, S. 952.

The VICE PRESIDENT. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 952) to provide for the appointment of additional district judges, and for other purposes.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to; and the Senate proceeded to consideration of the bill (S. 952) which had been reported from the Committee on the Judiciary with amendments on page 2, line 1, after the name "Colorado," strike out "six additional district judges for the District of Columbia," and insert "two additional district judges for the middle district of Florida,"; in line 14, after the name "Louisiana", strike out "one" and insert "two"; in the same line, after the word "district", where it appears the second time, strike out "judge" and insert "judges"; in line 17, after the name "Missouri", insert "one additional district judge for the western district of Missouri, one additional district judge for the district of Nebraska,"; in line 24, after the name "York", strike out "one additional district judge for the eastern district of North Carolina,"; on page 3, line 2, after the name "Ohio," strike out "five" and insert "six"; in line 7, after the name "Carolina", insert "one additional district judge for the western district of Tennessee,"; at the beginning of line 13, strike out "and"; in line 14, after the name "Virginia," insert "and one additional district judge for the southern district of West Virginia."; in line 24, after the name "Kansas," strike out "and"; on page 4, line 1, after the name "Pennsylvania", insert "and the existing district judgeship for the eastern district of Wisconsin"; in line 2, after the word "by", strike out "subsections (a) and (b) of"; in line 11, after the word "and" strike out "subsections (a) and (b) of"; in the table following line 19, under the heading "District Judges" strike out:

Alaska	2

On page 5, in the same table, strike out:

District of Columbia	21

In the same table under "Florida" insert:

Middle	7

In the same table, after the amendment just stated change the figure following the name "Southern" from "2" to "8"; and in the same table under "Georgia, Southern," change the figure from "8" to "2"; in the same table, following the name "Marylnad" change the figure from "6" to "7"; in the same table, following the name "Missouri, Eastern," insert:

Western	4

In the same table, after the amendment just stated, insert:

Nebraska	3

In the same table after the name "New York, Eastern," strike out:

North Carolina: Eastern	3

On page 6, in the same table, after the name "South Carolina" insert:

Tennessee, Western	3

In the same table, after the name "Virginia, Eastern," insert:

West Virginia: Southern	2

In the same table after the amendment just stated, insert:

Wisconsin: Eastern	3

On page 6, line 1, after "SEC. 2"' insert "(a)"; at the beginning of line 6, insert:

(b) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the middle district of Pennsylvania. The first vacancy occurring in the office of district judge in said district shall not be filled.

At the top of page 7, insert:

(c) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the eastern district of North Carolina. The first vacancy occurring in the office of district judge in said district shall not be filled.

On page 8, after line 9, insert:

(d) The third sentence of section 24 of the Revised Organic Act of the Virgin Islands, as amended by this Act, is amended to read as follows:

"Whenever it is made to appear that such an assignment is necessary for the proper dispatch of the business of the district court the chief judge of the Third Judicial Circuit of the United States may assign a judge of the municipal court of the Virgin Islands or a circuit or district judge of the Third Circuit, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit to serve temporarily as a judge of the District Court of the Virgin Islands."

On page 10, after line 2, insert a new section, as follows:

SEC. 6. Section 118(a) of title 28, United States Code, is hereby amended to read as follows:

"EASTERN DISTRICT

"The Eastern District comprises the counties of Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia, and Schuylkill.

"Court for the Eastern District shall be held at Easton, Reading, and Philadelphia."

After line 10, insert a new section, as follows:

SEC. 7. Section 41 of the Act of March 2, 1917 (ch. 415, 39 Stat. 965), as amended (48 U.S.C. 863), be and hereby is repealed.

After line 10, insert a new section, as follows:

SEC. 8. Section 753 of title 28, United States Code is hereby amended as follows:

(a) Subsection (b) is amended to read:

"(b)(1) Except as provided in subsection (b)(2) of this section, one of the reporters appointed for each such court shall attend at each session of the court and at every other proceeding designated by rule or order of the court or by one of the judges, and shall record verbatim by shorthand or by mechanical means which may be augmented by electronic sound recording subject to regulations promulgated by the Judicial Conference: (1) all proceedings in criminal cases had in open court; and (2) all proceedings in other cases had in open court unless the parties with the approval of a judge shall agree specifically to the contrary; and (3) such other proceedings as the judge of the court may direct or as may be required by rule or order of court or as may be requested by any party to the proceeding.

"(2) Upon a determination that such action is necessary to insure the expeditious production of transcripts or to otherwise expedite and improve the administration of justice, the Judicial Council of any circuit, subject to regulations promulgated by the Judicial Conference, may direct that an electronic sound recording be made of any proceedings or part thereof in any district court in the circuit and that the attendance of a reporter not be required at such proceedings or part thereof.

"(3) The Judicial Conference shall prescribe the types of electronic sound recordings which may be used by the reporters in accordance with the provisions of subsection (b)(1) of this section and which may be used

in absence of a reporter in accordance with the provisions of subsection (b)(2) of this section. Any such sound recording when properly certified shall be admissible evidence to establish the record of that part of the proceedings which has been recorded.

"(4) Any reporter who has made a record of any proceeding in accordance with the provisions of subsection (b)(1) of this section and any person who has made a sound recording of any proceeding in accordance with the provisions of subsection (b)(2) of this section shall attach his official certificate to the original shorthand notes, sound recording or other original records so taken and file them with the clerk who shall preserve them in the public records of the court for not less than ten years.

"(5) The reporter shall transcribe and certify all arraignments, pleas and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording as provided in this subsection and the original records so taken have been certified and filed with the clerk as hereinabove provided in this subsection. He shall also transcribe and certify such other parts of the records of proceedings as may be required by rule or order of court. Upon the request of any party to any proceeding which has been so recorded who has agreed to pay the fee therefore, or of a judge of the court, the reporter shall promptly transcribe the original records of the requested parts of the proceedings and attach to the transcript his official certificate, and deliver the same to the party or judge making the request.

"The reporter shall promptly deliver to the clerk for the records of the court a certified copy of any transcript so made.

"(6) The transcript in any case certified by the reporter shall be deemed prima facie, a correct statement of the testimony taken and the proceedings had. No transcript of the proceedings of the court shall be considered as official except those made from the records taken by the reporter or from an electronic sound recording made in accordance with the provisions of subsection (b)(2) of this section.

"(7) The original notes, electronic recording or other original records and the copy of the transcript in the office of the clerk shall be open during office hours to inspection by any person without charge."

(b) The first sentence of subsection (e) is amended by striking and eliminating the words "at not less than $3,000 nor more than $7,630 per annum."

(c) A new subsection (g) is added to read as follows:

"(g) If, upon the advice of the chief judge of any district court within the circuit, the judicial council of any circuit determines that the number of court reporters provided such district court pursuant to subsection (a) of this section is insufficient to meet temporary demands and needs and that the services of additional court reporters for such district court should be provided the judges of such district court (including the senior judges thereof when such senior judges are performing substantial judicial services for such court) on a contract basis, rather than by appointment of court reporters as otherwise provided in this section, and such judicial council notifies the Director of the Administrative Office, in writing, of such determination, the Director of the Administrative Office is authorized to and shall contract with any suitable person, firm, association or corporation for the providing of court reporters to serve such district court under such terms and conditions as the Director of the Administrative Office finds, after consultation with the chief judge of the district court, will best serve the needs of such district court.

On page 14, after line 10, insert a new section, as follows:

SEC. 9. Section 332 of title 28, United States Code, is amended (a) by designating each of the existing paragraphs thereof as subsections (a), (b), (c), and (d) respectively; and (b) by inserting new subsections (e) and (f) to read:

"(e) From a list of not less than three names submitted to the council by the Director of the Administrative Office of the United States Courts, each judicial council shall appoint a court executive of the circuit who shall exercise such administrative powers and perform such administrative duties as may be delegated to him by the council.

"All duties delegated to the court executive shall be subject to the general supervision of the chief judge of the circuit.

"The qualifications for the position of court executive shall be established by the Judicial Conference and shall emphasize management expertise. The court executive shall not be required to have a law degree.

"The court executive of the circuit shall serve at the pleasure of the judicial council and shall be paid at a rate established by the Judicial Conference of the United States. The salary of the court executive shall not exceed the amount authorized by law for a referee in bankruptcy.

"(f) In performing its duties prescribed by sections 332 and 372(b) of title 28, United States Code the judicial council may, under rules adopted by the Supreme Court, issue such orders as are necessary to compel the appearance of witnesses and the production of documents. As prescribed within the order, such orders may issue to any part of the circuit and may require the appearance of witnesses and the production of documents at any place designated for holding court within the circuit."

On page 15, after line 16, insert a new section, as follows:

SEC. 10. Chapter 49 of title 28, United States Code, is hereby amended by adding after Section 756 thereof the following new section:

"§ 757. District Court Executive

"(a) Each district court authorized by law six or more permanent judges may, upon approval of the judicial council of the circuit and the Judicial Conference of the United States, appoint a district court executive. The appointment shall be made from a list of not less than three names submitted to the court by the Director of the Administrative Office of the United States Courts.

"(b) The qualifications for the position of court executive shall be set by the Judicial Conference and shall emphasize management expertise. The district court executive shall not be required to have a law degree.

"(c) The district court executive shall serve at the pleasure of the chief judge of the district court. The salary of the district court executive shall be established by the Judicial Conference of the United States but shall not exceed 75 per centum of the rate now or hereafter prescribed by law for a district judge.

"(d) The district court executive shall exercise such administrative powers and perform such administrative duties as may be delegated to him by the court. All duties delegated to the court executive shall be subject to the general supervision of chief judge of the district.

"(b) The analysis of chapter 49 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"757. District Court Executive."

So as to make the bill read:

S. 952

A bill to provide for the appointment of additional district judges, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the northern district of Alabama, one additional district judge for the middle district of Alabama, one additional district judge for the district of Arizona, two additional district judges for the northern district of California, three additional district judges for the central district of California, three additional district judges for the southern district of California, one additional district judge for the district of Colorado, two additional district judges for the middle district of Florida, three additional district judges for the southern district of Florida, three additional district judges for the northern district of Georgia, one additional district judge for the southern district of Georgia, two additional district judges for the nothern district of Illinois, one additional district judge for the northern district of Indiana, one additional district judge for the southern district of Indiana, one additional district judge for the eastern district of Kentucky, one additional district judge for the western district of Kentucky, two additional district judges for the eastern district of Louisiana, one additional district judge for the western district of Louisiana, two additional district judges for the district of Maryland, two additional district judges for the eastern district of Michigan, one additional district judge for the eastern district of Missouri, one additional district judge for the western district of Missouri, one additional district judge for the district of Nebraska, one additional district judge for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the eastern district of New York, five additional district judges for the southern district of New York, one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, six additional district judges for the eastern district of Pennsylvania, two additional district judges for the western district of Pennsylvania, one additional district judge for the district of Puerto Rico, one additional district judge for the district of South Carolina, one additional district judge for the western district of Tennessee, two additional district judges for the northern district of Texas, two additional district judges for the eastern district of Texas, one additional district judge for the southern district of Texas, one additional district judge for the western district of Texas, one additional district judge for the eastern district of Virginia, and one additional district judge for the southern district of West Virginia.

(b) The existing district judgeship for the middle and southern districts of Alabama, heretofore provided for by section 133 of title 28 of the United States Code, shall hereafter be a district judgeship for the southern district of Alabama only, and the present incumbent of such judgeship shall henceforth hold his office under section 133, as amended by this Act.

(c) The existing district judgeship for the district of Kansas, the existing district judgeships for the eastern district of Pennsylvania and the existing district judgeship for the eastern district of Wisconsin created by section 5 of the Act entitled "An Act to provide for the appointment of additional circuit and district judges, and for other purposes," approved March 18, 1966 (80 Stat. 78) and amended by the Act of September 23, 1967 (81 Stat. 228), shall be permanent judgeships and the present incumbents of such judgeships shall henceforth hold their offices under section 133 of title 28, United States Code, as amended by this Act. The Act of September 23, 1967 (81 Stat. 228) and section 5 of the Act of March 18, 1966 (80 Stat. 78) are hereby repealed.

(d) In order that the table contained in

section 133 of title 28 of the United States Code will reflect the changes made by this Act in the number of permanent district judgeships for said districts and combinations of districts, such table is amended to read as follows with respect to these districts:

District	Judges
Alabama:	
Northern	4
Middle	2
Southern	2
Arizona	5
* * * * *	
California:	
Northern	11
* * * * *	
Central	16
Southern	5
Colorado	4
* * * * *	
Florida:	
* * * * *	
Middle	7
Southern	8
Georgia:	
Northern	6
* * * * *	
Southern	2
* * * * *	
Illinois: Northern	13
* * * * *	
Indiana:	
Northern	4
Southern	5
* * * * *	
Kansas	4
Kentucky:	
Eastern	2
Western	3
* * * * *	
Louisiana:	
Eastern	10
Western	4
* * * * *	
Maryland	7
* * * * *	
Michigan: Eastern	10
* * * * *	
Missouri	
Eastern	3
Western	4
* * * * *	
Nebraska	3
New Jersey	9
New Mexico	3
New York:	
* * * * *	
Southern	29
Eastern	9
* * * * *	
Ohio:	
Northern	8
Southern	5
* * * * *	
Pennsylvania:	
Eastern	19
* * * * *	
Western	10
Puerto Rico	3
* * * * *	
South Carolina	5
* * * * *	
Tennessee:	
Western	3
* * * * *	
Texas:	
Northern	7
Southern	8
Eastern	4
Western	5
* * * * *	
Virginia: Eastern	6
* * * * *	
West Virginia:	
* * * * *	
Southern	2
* * * * *	
Wisconsin: Eastern	3

SEC. 2. (a) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the district of New Jersey. The first vacancy occurring in the office of district judge in said district shall not be filled.

(b) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the middle district of Pennsylvania. The first vacancy occurring in the office of district judge in said district shall not be filled.

(c) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the eastern district of North Carolina. The first vacancy occurring in the office of district judge in said district shall not be filled.

SEC. 3. (a) The President shall appoint, by and with the advice and consent of the Senate, one additional judge for the District Court of the Virgin Islands, who shall hold office for the term of eight years and until his successor is chosen and qualified, unless sooner removed by the President for cause.

(b) In order to reflect the change made by this section, the first, second, and fourth sentences of section 24 of the revised Organic Act of the Virgin Islands are amended to read as follows: "The President shall, by and with the advice and consent of the Senate, appoint two judges for the District Court of the Virgin Islands, who shall hold office for terms of eight years and until their successors are chosen and qualified, unless sooner removed by the President for cause. The salary of a judge of the district court shall be at the rate prescribed for judges of the United States district courts. * * * The compensation of the judges of the district court and the administrative expenses of the court shall be paid from appropriations made for the judiciary of the United States."

(c) Section 24 of the revised Organic Act of the Virgin Islands, as amended by this Act, is further amended by inserting before the first word of the language thereof the subsection designation "(a)", and by adding after the final word of that language, the following subsection:

"(b) The eligibility of the chief judge shall be determined as provided in section 136 of title 28, United States Code, and the division of the business among the judges shall be made as prescribed in section 137 of that title."

(d) The third sentence of section 24 of the Revised Organic Act of the Virgin Islands, as amended by this Act, is amended to read as follows:

"Whenever it is made to appear that such an assignment is necessary for the proper dispatch of the business of the district court, the chief judge of the Third Judicial Circuit of the United States may assign a judge of the municipal court of the Virgin Islands or a circuit or district judge of the Third Circuit, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit to serve temporarily as a judge of the District Court of the Virgin Islands."

SEC. 4. (a) Section 128(a) of title 28, United States is hereby amended to read as follows:

"EASTERN DISTRICT

"(a) The Eastern District comprises the counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima.

"Court for the Eastern District shall be held at Spokane, Yakima, Walla Walla, and Richland."

(b) Section 128(b) of title 28, United States Code, is hereby amended to read as follows:

"WESTERN DISTRICT

"(b) The Western District comprises the counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom.

"Court for the Western District shall be held at Bellingham, Seattle, and Tacoma."

SEC. 5. Section 92 of title 28, United States Code, is hereby amended to read as follows:

"§ 92. Idaho

"Idaho, exclusive of Yellowstone National Park, constitutes one judicial district.

"Court shall be held at Boise, Coeur d'Alene, Moscow, and Pocatello."

SEC. 6. Section 118(a) of title 28, United States Code, is hereby amended to read as follows:

"EASTERN DISTRICT

"The Eastern District comprises the counties of Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia, and Schuylkill.

"Court for the Eastern District shall be held at Easton, Reading, and Philadelphia."

SEC. 7. Section 41 of the Act of March 2, 1917 (ch. 415, 39 Stat. 965), as amended (48 U.S.C. 863), be and hereby is repealed.

SEC. 8. Section 753 of title 28, United States Code, is hereby amended as follows:

(a) Subsection (b) is amended to read:

"(b)(1) Except as provided in subsection (b)(2) of this section, one of the reporters appointed for each such court shall attend at each session of the court and at every other proceeding designated by rule or order of the court or by one of the judges, and shall record verbatim by shorthand or by mechanical means which may be augmented by electronic sound recording subject to regulations promulgated by the Judicial Conference: (1) all proceedings in criminal cases had in open court; and (2) all proceedings in other cases had in open court unless the parties with the approval of a judge shall agree specifically to the contrary; and (3) such other proceedings as the judge of the court may direct or as may be required by rule or order of court or as may be requested by any party to the proceedings.

"(2) Upon a determination that such action is necessary to insure the expeditious production of transcripts or to otherwise expedite and improve the administration of justice, the Judicial Council of any circuit, subject to regulations promulgated by the Judicial Conference, may direct that an electronic sound recording be made of any proceedings or part thereof in any district court in the circuit and that the attendance of a reporter not be required at such proceedings or part thereof.

"(3) The Judicial Conference shall prescribe the types of electronic sound recordings which may be used by the reporters in accordance with the provisions of subsection (b)(1) of this section and which may be used in the absence of a reporter in accordance with the provisions of subsection (b)(2) of this section. Any such sound recording when properly certified shall be admissible evidence to establish the record of that part of the proceedings which has been recorded.

"(4) Any reporter who has made a record of any proceeding in accordance with the provisions of subsection (b)(1) of this section and any person who has made a sound recording of any proceeding in accordance with the provisions of subsection (b)(2) of this section shall attach his official certificate to the original shorthand notes, sound

recording or other original records so taken and file them with the clerk who shall preserve them in the public records of the court for not less than ten years.

"(5) The reporter shall transcribe and certify all arraignments, pleas and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording as provided in this subsection and the original records so taken have been certified and filed with the clerk as herein above provided in this subsection. He shall also transcribe and certify such other parts of the records of proceedings as may be required by rule or order of court. Upon the request of any party to any proceeding which has been so recorded who has agreed to pay the fee therefor, or of a judge of the court, the reporter shall promptly transcribe the original records of the requested parts of the proceedings and attach to the transcript his official certificate, and deliver the same to the party or judge making the request.

"The reporter shall promptly deliver to the clerk for the records of the court a certified copy of any transcript so made.

"(6) The transcript in any case certified by the reporter shall be deemed prima facie, a correct statement of the testimony taken and the proceedings had. No transcript of the proceedings of the court shall be considered as official except those made from the records taken by the reporter or from an electronic sound recording made in accordance with the provisions of subsection (b)(2) of this section.

"(7) The original notes, electronic recording or other original records and the copy of the transcript in the office of the clerk shall be open during office hours to inspection by any person without charge."

(b) The first sentence of subsection (e) is amended by striking and eliminating the words "at not less than $3,000 nor more than $7,630 per annum."

(c) A new subsection (g) is added to read as follows:

"(g) If, upon the advice of the chief judge of any district court within the circuit, the judicial council of any circuit determines that the number of court reporters provided such district court pursuant to subsection (a) of this section is insufficient to meet temporary demands and needs and that the services of additional court reporters for such district court should be provided the judges of such district court (including the senior judges thereof when such senior judges are performing substantial judicial services for such court) on a contract basis, rather than by appointment of court reporters as otherwise provided in this section, and such judicial council notifies the Director of the Administrative Office, in writing, of such determination, the Director of the Administrative Office is authorized to and shall contract with any suitable person, firm association or corporation for the providing of court reporters to serve such district court under such terms and conditions as the Director of Administrative Office finds, after consulation with the chief judge of the district court, will best serve the needs of such district court.

SEC. 9. Section 332 of title 28, United States Code, is amended (a) by designating each of the existing paragraphs thereof as subsections (a), (b), (c), and (d), respectively; and (b) by inserting new subsections (e) and (f) to read:

"(e) From a list of not less than three names submitted to the council by the Director of the Administrative Office of the United States Courts, each judicial council shall appoint a court executive of the circuit who shall exercise such administrative powers and perform such administrative duties as may be delegated to him by the council.

"All duties delegated to the court executive shall be subject to the general supervision of the chief judge of the circuit.

"The qualifications for the position of court executive shall be established by the Judicial Conference and shall emphasize management expertise. The court executive shall not be required to have a law degree.

"The court executive of the circuit shall serve at the pleasure of the judicial council and shall be paid at a rate established by the Judicial Conference of the United States. The salary of the court executive shall not exceed the amount authorized by law for a referee in bankruptcy.

"(f) In performing its duties prescribed by sections 332 and 372(b) of title 28, United States Code the judicial council may, under rules adopted by the Supreme Court, issue such orders as are necessary to compel the appearance of witnesses and the production of documents. As prescribed within the order, such orders may issue to any part of the circuit and may require the appearance of witnesses and the production of documents at any place designated for holding court within the circuit."

SEC. 10. Chapter 49 of title 28, United States Code, is hereby amended by adding after section 756 thereof the following new section:

"§ 757. District Court Executive

"(a) Each district court authorized by law, six or more permanent judges may, upon approval of the judicial council of the circuit and the Judicial Conference of the United States, appoint a district court executive. The appointment shall be made from a list of not less than three names submitted to the court by the Director of the Administrative Office of the United States Courts.

"(b) The qualifications for the position of court executive shall be set by the Judicial Conference and shall emphasize management expertise. The district court executive shall not be required to have a law degree.

"(c) The district court executive shall serve at the pleasure of the chief judge of the district court. The salary of the district court executive shall be established by the Judicial Conference of the United States but shall not exceed 75 per centum of the rate now or hereafter prescribed by law for a district judge.

"(d) The district court executive shall exercise such administrative powers and perform such administrative duties as may be delegated to him by the court. All duties delegated to the court executive shall be subject to the general supervision of chief judge of the district.

"(b) The analysis of chapter 49 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"757. District Court Executive."

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (Rept. No. 91-262) explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The purpose of the proposed legislation as amended, is to provide for the creation of additional district judgeships throughout the United States and to make amendments to the Judicial Code which will enable the federal courts to efficiently and expeditiously handle the business brought before them, and for other purposes.

STATEMENT

The Judicial Conference of the United States, at its session in September 1968, recommended the creation of 67 additional judgeships in the U.S. district courts, including one temporary judgeship position; and recommended further that four existing temporary judgeship positions be made permanently and that the roving judgeship for the Middle and Southern Districts of Alabama be made a judgeship only for the Southern District of Alabama. Subsequently, at its session in March 1969, the Conference recommended the creation of one more district judgeship, that for the Western District of Tennessee.

S. 952, as introduced, contained the September 1968 recommendations of the Judicial Conference of the United States and would have created a total of 68 additional judgeships as follows: Sixty-seven permanent district judgeships and one temporary district judgeship.

The bill, as amended, would create 70 new judgeships as follows: Sixty-seven permanent district judgeships and three temporary district judgeships.

The basis for the recommendations of the Conference was a systematic and comprehensive statistical study and review of the judicial business of the circuit and district courts undertaken by two Conference committees with the assistance of the Administrative Office of the U.S. Courts. The study was made in the light of the policy adopted by the Conference in 1964 of making a quadrennial survey of the need for additional district and circuit judgeships. Under this policy, the committees of the Conference survey the needs of the district and circuit courts separately, and present requests for new district and circuit judgeships separately. In 1965, the Conference submitted to Congress an omnibus district judgeship request which led to the enactment of the Act of March 18, 1966. In 1967, the Conference presented an omnibus circuit judgeship request which led to the enactment of Public Law 90-347, signed into law on June 15, 1968.

The report of the Committee on Judicial Statistics to the Judicial Conference contains the following statement with reference to its most recent survey and the factors taken into consideration by the Committee in its survey of district court needs:

"Four years have elapsed since the Committee's last general survey of district judgeship needs in 1964. In the interim the Committee has considered numerous requests for recommending additional judgeships on an emergency basis, but found none of the situations so critical as to require such emergency action. All requests were therefore deferred for consideration at the quadrennial review of judgeship needs undertaken this year in accordance with the 4-year policy previously receiving Conference approval.

"The factors focused upon by the Committee in the statistics were the nature and extent of the accumulation of cases and the rate of attrition in the buildup of the backlog; the rate of dispositions as a matter of overall judicial performance as an aspect of the ability of the court to cope with its caseload; the trends in case filings; and the comparative weighted caseload per judgeship, with the awareness that the weighted caseload requires the revision reported above. In recognition of the policy of reviewing judgeship needs once every 4 years the Committee also included as a deliverative element a factor of projection. These factors considered in the light of the recommendations of the judicial councils of the circuits and the individual district courts, fused themselves into what the Committee considers to be the demonstrably justifiable needs for judgeships in the district courts at the present time and in the next 4 years, except as extraordinary developments may occur in some individual situations."

The Subcommittee on Improvements in Judicial Machinery held hearings on S. 952 on April 15 and 16 and May 6 and 7, 1969. At the first set of hearings, the subcommittee heard testimony from witnesses representing the Judicial Conference of the United States, the Department of Justice, and other interested parties. Testimony taken at these hearings disclosed not only a need for additional district judgeships, but also suggested the need for amendments to the Judicial Code to improve the administrative efficiency of the Federal judicial system. In order to develop further testimony on the need for the judgeships and the suggested amendments, the subcommittee heard testimony on May 6 and 7 from, among others, the chief judges of six of the 11 Federal judicial circuits and received for the record written communications from the chief judges of 3 other Federal judicial circuits. On the basis of the statistical data provided by the Administrative Office and the testimony taken at the subcommittee hearings, the pending legislation was refined in the manner presented by this report.

In reviewing the pending legislation, your committee was reminded of the efficacy of a portion of its report on the bill to establish a Federal Judicial Center. That report[1] stated:

"In the past Congress has responded to accelerating judicial business by establishing new judgeships. It is more and more apparent, however, that increased manpower alone is not the entire solution to the problem. The number of Federal judges has almost doubled since 1941. In particular, the record of the 5-year period from 1959 to 1964 belies the suggestion that the mere creation of additional judgeships is an adequate bulwark against burgeoning judicial backlogs. During that period, a 25-percent increase in the number of Federal district court judges resulted in but a 3-percent increase in the total number of civil cases terminated."

That statement, now a year and a half old, remains valid. Since 1959 there has been a 40-percent increase in the number of Federal district judges, but only a 9-percent increase in the number of civil and criminal dispositions.

The creation of additional judgeships alone has not solved the problems of backlog and delay nor have the benefits anticipated from their creation been fully realized. As cases in the Federal courts become more complex and more numerous, the need becomes more pressing for modern administrative techniques to assist the court to perform their judicial functions expeditiously and fairly.

To bring managerial skills to the operating levels of the Federal court system, amendments were made to S. 952 to create a court executive for each circuit and to allow the appointment of a district court executive in those districts having six or more authorized permanent judgeships.

The circuit executive can develop the information and make the suggestions necessary to vitalize the statutory powers held by the judicial councils. Further assistance to the councils is provided by granting to them the power to compel the attendance of witnesses and the production of documents. Testimony before the Subcommittee on Improvements in Judicial Machinery clearly revealed that the judicial councils have not fulfilled the responsibility for which they were conceived—that of effectively superintending the judicial business within their circuits. Part of this failure is due to an absence of staff assistance and the subpena power, both of which would now be provided to the councils.

The hearings before the Subcommittee on Improvements in Judicial Machinery and the statistics contained in the annual report of the Director of the Administrative Office clearly demonstrated that there was a growing and serious problem of delay in the Federal appellate process. A large part of this delay involves the timelag in the transcription of court reporters' notes for appeal. Amendments were added to S. 952 to give the courts necessary flexibility in the hiring and utilization of court reporters.

In the opinion of the committee it is necessary to dispense with the requirements of subsection (4) of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The VICE PRESIDENT. Without objection, the amendments are considered and agreed to en bloc.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. DIRKSEN. Mr. President, the Senate has just passed the bill to provide additional district judges. I think at least a word ought to be said about the bill.

These recommendations came from the Judicial Conference and from the Administration Office of U.S. Courts, which keep rather current about what is happening in district courts all over the country so as to ascertain whether there is an increase in the workload and in the termination of cases, both civil and criminal. There is now, of course, a rather substantial increase in the workload, and that means that additional judges are required to expedite the work of the courts. That is why the bill is here.

The bill provides for 70 additional judges. I wish to compliment the Senator from Maryland (Mr. TYDINGS) and the Senator from Nebraska (Mr. HRUSKA), who have done a tremendous amount of work on the bill. Additions, changes, and modifications have been made. Likewise, amendments dealing with the court system as such have been made, all of them designed to improve the efficiency and the expedition of the work of the courts, to enable them to render better service.

I believe that these additional judges are absolutely indispensible, particularly so when one stops to consider the congestion of criminal cases in the courts from one end of the country to the other. So this bill, which is an important bill, should reflect the general sentiment of the Senate as it goes on its way to the House of Representatives. I hope they will take expeditious action and that in due course these additional judges can be named so that they can get to work at once and deal with this rather phenomenal caseload.

Mr. TYDINGS. Mr. President, S. 952, as amended, provides for the creation of additional district court judgeships and makes certain changes in the Judicial Code to enhance the ability of the U.S. courts to administer justice.

The bill, as amended, provides for 70 new judgeships—67 permanent and three temporary—for 45 of the 93 Federal district courts. The new judgeships are in large part those recommended by the Judicial Conference of the United States at its September 1968 meeting. The Conference's recommendations were developed after a systematic and comprehensive statistical study and review of the judicial business of the district courts by the Conference's Committees on Judicial Statistics and Court Administration. The recommendations of the Judicial Conference were embodied in S. 952 introduced by the chairman of the Judiciary Committee, Senator EASTLAND, on February 7, 1969. Hearings on S. 952 were held by the Subcommittee on Improvements in Judiciary Machinery of which I am chairman on April 15 and 16 and May 6 and 7, 1969. At these hearings, the subcommittee heard testimony and received, for the record, statements and communications from approximately 70 interested parties, including Senators, Representatives, judges, bar associations, and private attorneys.

The testimony and statements received at these hearings suggested not only the need for additional judge-power at the trial level in the Federal judicial system but also, and perhaps even more importantly, called attention to the need for improved techniques and managerial assistance to help the courts handle effectively the increasingly more numerous and complex cases brought by our exploding population. Sections 8, 9, and 10 of S. 952 embody amendments offered in response to this need. In my mind, those amendments are as important, if not more important, than the creation of the additional judgeships.

The amendments embodied in sections 8, 9, and 10 of S. 952 are designed to alleviate existing problems relating to court reporters, to create administrative officers for the judicial councils of the respective circuits and for districts having six or more authorized judgeships and to provide subpena power to the councils.

To fully appreciate the need for these new provisions of law, it is necessary to review the present administrative hierarchy of the Federal judicial system. At the pinnacle of that hierarchy is the Judicial Conference of the United States which serves as the policymaking organ for the so-called inferior Federal courts. Its various committees report to the semiannual meetings of the Conference on a wide range of subjects. The Conference, however, is not vested with the day-to-day administrative responsibility and control of the Federal judicial system. Under section 332 of title 28, United States Code, the judicial council of each circuit, composed of all of the active circuit judges in the circuit, is charged with reviewing the business of all the courts in the circuit, and is empowered to "make all necessary orders for the effective and expeditious administration of the business of the courts within its circuit." The district courts are required, by that statute, to follow the council's orders.

At the district court level, each chief judge is responsible for administering the business and dividing the cases among the judges according to rules formulated by the district court, and the council.

From this review of the administrative

[1] S. Rept. 181, 90th Cong., first sess. 8 (1967).

framework of the Federal judicial system, it is clear that the principal responsibility for court administration rests with the judicial councils. Since their creation in 1939, however, the councils have not adequately fulfilled this role. The deficiencies of the councils was the cause of a study in 1961 by Judicial Conference of the powers and responsibilities of the councils. A special committee of the Conference reviewed the background, history and experience under section 32 of the code, and their report to the Congress was published as House Document No. 201, 87th Congress, first session. That report did not call for new legislation to implement the directives of section 332 but recognized that greater effort by the judiciary was necessary to assure that the councils were fulfilling their statutory responsibility.

That report of the Conference concluded that the councils had responsibility to superintend the business of each of the courts within the circuit and the personnel of those courts, to work as an instrument to prevent problems of judicial administration from arising and to find solutions for those problems which did arise. To perform these functions, the conference recognized that the councils "must undertake to keep themselves informed," and that to properly inform themselves the councils would have to look beyond the statistics and investigate individual problems with the help of the Administrative Office of the U.S. Courts.

Since 1961, the performance of the councils has not markedly improved. The circuit judges composing those bodies have been inundated with an ever-increasing workload—appeals have climbed from 4,204 filed in fiscal year 1961 to 9,116 in fiscal year 1968. The number of appeals per circuit judgeship has jumped from 62 in fiscal year 1961 to 94 in fiscal year 1968. This rise in business has put heavy pressure on each circuit and judges, properly chosen for their legal acumen not their managerial skill, have had even less time than before to reflect and consider the administrative needs of the courts within the circuits.

During hearings before the Subcommittee on Improvements in Judicial Machinery on S. 952, I invited the chief judges of the circuits to comment on the individual judgeship requests, on the workings of the councils and on what was needed to make these administrative mechanisms work. Testimony revealed that the councils had been relatively important in meeting their responsibilities under section 332 because they were unable to develop the necessary facts on which orders for improved administration of the courts could be fashioned. Consequently, the subcommittee resolved to amend S. 952 to provide the councils with the tools the chief judges attest are necessary to an adequate fulfillment of responsibility under section 332.

Section 9 of S. 952 amends section 332 of title 28 to create the position of court executive for each circuit and to arm the circuit councils with the power to issue subpenas to compel the appearance of witnesses and the production of documents if such subpenas are required by the council to fulfill its duties under sections 332 or 372(b), the latter relating to the involuntary retirement of disabled judges.

I believe that a court administrator or executive for the circuit can greatly improve the administrative efficiency of all courts of the circuit, including the court of appeals itself. Such nonjudicial officers can bring managerial expertise and experience to the councils and can serve to gather information beyond what can be gleaned from statistics. By doing so, he can give vitality to the administrative prerogatives now granted to, but not now effectively exercised by, the respective judicial councils. He can relieve the chief judge of the circuit of numerous administrative chores and burdens, leaving the chief judge to supervise the court executive and conserving his time for the exercise of the paramount judicial function, that is, judging and deciding cases.

The concept of a court executive for each circuit was endorsed in principle by the Judicial Conference of the United States at its March 1969 meeting. It has also been endorsed by the American Bar Foundation report on "Accommodating the Workload of the United States Courts of Appeals" which, in pertinent part, reads:

> The administrative facilities of the Court of Appeals should be greatly strengthened.
>
> 1. Each court should have an administrative officer responsible to the Circuit Council having authority and responsibility for the adminstraton of the court's business. He should assume, as far as possible, all nonjudicial duties of the circuit judges.

In addition to the need for a person with managerial skill at the circuit level, the hearings conducted by the Subcommittee on Improvements in Judicial Machinery disclosed a need for power within the councils to compel attendance of witnesses and production of documents. This power would be useful to the council in determining the facts necessary for action under section 332 or 372(b) of title 28, United States Code. Section 9 of S. 952, consequently, adds a new subsection (b) to section 332 to provide the subpena power. The mere existence of such power may make its use rare, and open information to council scrutiny which has heretofore been unobtainable.

But making the councils more effective administrative bodies is not the sole answer to better judicial administration. Even the most effective case flow mechanism will be negated if sufficient judges are not available to try cases or dispose of them by pretrial consideration. Moreover, our large district courts are facing so many managerial problems that they need administrative assistance at their level. Therefore, section 10 was added to S. 952 to give district courts with six or more authorized judgeships, the services of a court executive who can bring to bear on immediate and daily problems of those courts the same knowledge and techniques which the circuit court executive would apply to the circuit as a whole. Only districts with proven need for managerial assistance will acquire an executive officer after approval of the respective circuit council and the Judicial Conference.

A judge's time should be spent in judging. He should not be, as too many judges are now forced to be, a personnel manager or docket controller. The court executive, both at the council and district level, will relieve judges of these time-consuming managerial tasks.

I have already alluded to the caseload problems of the Federal courts of appeals. In many ways these courts are the most heavily burdened in our entire federal system. There has been a distressing and growing time lag in the appellate process. The median time for disposition of a civil appeal is now 9.6 months; 10.6 months for a criminal appeal. The hearings conducted by the Subcommittee on Improvements in Judicial Machinery revealed that a number of circuits have undertaken experiments to reduce the delay from the filing of the last brief to final disposition. While these experiments are to be welcomed, greater delay now occurs in the compilation of the record of appeal and in briefing time than in the subsequent stages of the appellate process. The courts of appeals can themselves tighten up the briefing period by requiring adherence to time schedules and granting extensions only in real emergency situations. The courts, however, need help in reducing the delay in compilation of the record.

The median time in fiscal year 1968 for the filing of the complete appellate record was 1.8 months in civil cases and 2.8 months in criminal cases. The most time-consuming aspect of this part of the process is the transcription of the court reporters notes. There needs to be more flexible and effective utilization of reporters, and section 8 of S. 952 is designed to promote the more efficient use of reporters and thereby to expedite the judicial process.

Under the present provisions of law, a court reporter must be present in the courtroom at every session. Although the reporters are authorized to augment their own verbatim transcript with electronic sound recordings, such recordings may be substituted for a transcript taken by a court reporter only for proceedings on arraignment, plea, and sentence in criminal cases.

Clearly, transcripts could be produced more rapidly if court reporters spent less of their time in court. Their increasingly heavy caseload makes it nearly impossible for them to be in the courtroom and to still keep up production. The proposed amendments to subsection (b) of section 753 of title 28, United States Code, supported in principle by many witnesses during the hearings on S. 952, would enable the judicial council of any circuit, subject to regulations promulgated by the Judicial Conference, to authorize the use of electronic sound recordings and the consequential release of reporters from court attendance upon a determination that such action is necessary to insure the expeditious production of transcripts or to otherwise expedite and improve the administration of justice. Any such sound recording when properly certified will be admissible evidence to establish the record of the part

of the proceedings which has been recorded.

These amendments to subsection (b) of section 753 will enable the Federal judiciary to begin experimentation with and utilization of sophisticated electronic sound recording techniques and equipment and to thereby provide court reporters with the out-of-court time necessary for the more expeditious production of transcripts.

Under the existing provisions of subsection (e) of section 753 the Judicial Conference has the authority to set the salaries of court reporters subject to a statutory maximum and minimum. Representatives of the Judicial Conference, with the support of the court reporters association of the Federal judiciary, recommended the elimination of the statutory maximum and minimum. This recommendation would be implemented under the provisions of subsection (b) of section 8 of S. 952. Because of the statutory maximum, the Federal courts in some circuits are unable to compete effectively with the State courts for the services of court reporters. Elimination of the statutory maximum will enable the Judicial Conference to establish competitive salaries, which may well vary from circuit to circuit. Elimination of the statutory minimum will provide the Administrative Office of the U.S. Courts with more flexibility in the hiring of part-time and short-term court reporters.

The Judicial Conference also recommended amending section 753 by adding the proposed new subsection (g) contained in subsection (c) of section 8 of S. 952. Under existing provisions of section 753 it is not clear whether or not the Administrative Office can meet temporary demands and needs in a particular district court by contracting with a court reporting agency to provide services on an intermittent basis. At present, an attempt is made to meet such needs by hiring additional individual court reporters. Experience has shown that there is great difficulty in obtaining the services of individual court reporters for short-term, intermittent service. The proposed subsection (g) will make it clear that the Administrative Office has the power to hire reporting agencies which will be able to provide court reporters whenever they are needed to meet an emergency situation.

The amendments to S. 952 contained in sections 8, 9, and 10 are vital to improvement in the Federal judicial system. They will give the courts the modern tools they need to meet their responsibilities. They are no less essential than the increases in judge-power provided by S. 952.

The creation of 70 new district judgeships is a dramatic increase in our Federal judiciary. The request, however, is meant not only to meet pressing caseload demands that now exist but also to anticipate needs of the future. No modern business would think of ignoring future needs in devising its personnel requirements. Too often in the past the judiciary has been guilty of ignoring the future and fashioning its requests only to meet past needs.

In making its request for judgeships to the Congress last September, the Judicial Conference projected its needs through 1972. Nine months have elapsed since their request was made. Final enactment of this legislation still lies in the future. There will also be some time expended in the filling of these judgeships. Indeed, the Justice Department witnesses at hearings on S. 952 estimated the passage of a year after final enactment before all the new positions would be manned. Such a delay in filling judicial vacancies should not be countenanced, and, as I told the Department's witness at the hearings, a much shorter period of time should be expected by our citizenry. Yet, I must note that there has been a serious problem in expeditiously filling vacancies in some of our districts and circuits. Indeed, our hearings disclosed that more than 140 judge-years have been lost through vacancies existing for 6 months or more.

The timelag in authorization of judgeships and the filling of vacancies are sound reasons, in and of themselves, for the desire of the Judicial Conference to project future needs for judges. Equally important, however, is the very real fact of our Nation's exploding population. The record shows that litigation has been increasing even faster than the population. If we ignore population trends, we will have a judiciary barely able to meet the demands of the 1960's, when they are forced to cope with the caseloads of the 1970's.

It is relevant to note that, once a serious backlog of cases develops in a court, herculean efforts may be insufficient to restore the lost ideal of swift justice. The flow of new cases is just too rapid to allow meaningful reduction in backlog without the addition of more judges. Each of our major metropolitan areas district courts is now confronting a serious backlog or its docket is showing the signs of a steadily approaching crises. Federal cases, particularly criminal cases, have grown more complex and are consuming ever-greater amounts of court time. Recent court decisions have reduced the number of guilty pleas and generated a voluminous number of pretrial motions. This result calls for the addition of judges so that our criminal calendars will not break down to the dertiment of our entire society.

The judgeships authorized by S. 952 have been scrutinized carefully by the Judicial Conference, the Subcommittee on Improvement in Judiciary Machinery, and the full Judiciary Committee. Each must stand on its own particular facts which are set out in the committee's report.

The committee report contains one error. The statistics for the northern district of Illinois have been printed both after the text on that district and after the text on the northern district of Indiana. The statistics for the northern district of Indiana have not been printed in the report. I therefore ask unanimous consent that these statistics be printed in the RECORD.

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

TABLE 1.—U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA

Authorized judgeships, 3

Resident judges:	Places of holding court:
Robert A. Grant, chief judge	South Bend
George N. Beamer	Hammond
Jesse E. Eschbach	Fort Wayne
	Lafayette

District [1] population 1960, 1,959,615

Year [1]	State population	Percent increase over 1960
1960	4,662,498	
1967	5,000,000	7.3
1970	5,095,000	9.3
1975	5,471,000	16.2

[1] 1960 actual. Years 1967, 1970, and 1975 are estimates published by the Bureau of the Census.

TABLE 2.—U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA

Civil and criminal cases commenced, terminated, and pending

Fiscal year	Total civil cases [1]			Total criminal cases		
	Commenced	Terminated	Pending	Commenced	Terminated	Pending
1959	522	466	542	192	197	72
1960	485	452	575	220	226	66
1961	537	522	590	183	199	50
1962	519	426	683	157	140	67
1963	580	577	686	194	191	70
1964	625	629	682	177	189	58
1965	628	643	667	240	211	87
1966	664	587	744	241	235	93
1967	583	565	762	163	204	52
1968	597	648	711	230	199	83

Distribution of civil cases

Fiscal year	Private civil			U.S. civil		
	Commenced	Terminated	Pending	Commenced	Terminated	Pending
1959	271	239	381	251	227	161
1960	259	256	384	226	196	191
1961	287	272	399	250	250	191
1962	286	197	488	233	229	195
1963	317	333	472	263	244	214
1964	380	335	517	245	294	165
1965	453	436	534	175	207	133
1966	478	428	584	186	159	160
1967	463	418	629	120	147	133
1968	476	513	592	121	135	119

[1] Private civil and U.S. civil cases shown below.

TABLE 3.—U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA—CIVIL CASES COMMENCED DURING THE FISCAL YEARS 1959 THROUGH 1968, AND CIVIL CASES PENDING ON JUNE 30, 1958, JUNE 30, 1967, AND JUNE 30, 1968, BY NATURE OF SUIT

Nature of suit	Civil cases pending, June 30, 1958	Civil cases filed, by fiscal year									Civil cases pending, June 30, 1967	Civil cases filed 1968	Civil cases pending, June 30, 1968
		1959	1960	1961	1962	1963	1964	1965	1966	1967			
Total	486	522	485	537	519	580	625	628	664	583	762	597	711
U. S. plaintiff, total	115	231	206	237	198	243	206	137	147	90	98	67	74
Land condemnation	8	2	1	1	2	2	8	11	17	5	21	1	7
Note cases and overpayments	40	126	75	105	72	127	84	69	60	25	15	27	19
Antitrust			1	1			1					1	
Labor cases		22	12	8	8	13	21	20	16	22	22	10	18
Tax	6	2	2		1	3	2	1			1		1
Other	61	79	115	122	116	100	89	35	53	38	39	28	29
U. S. defendant, total	22	20	20	13	35	20	39	38	39	30	35	54	45
Tort Claims Act	4	5	2	3	6	1	8	4	4	8	12	11	13
Prisoner petitions		4	2	1	8	4	13	16	13	11	7	20	7
Tax refund	11	4	8	6	14	10	7	6	9	5	11	10	13
Social security					4	3	5	5	5	1		5	4
Other	7	6	8	3	3	2	6	7	8	5	5	8	8
Federal question, total	49	81	63	63	74	51	64	73	89	74	91	93	80
Marine contracts			1				1			1	1		1
Jones Act		1	2					1		2	2		2
Federal Employer's Liability Act	8	8	6	4	3	6	2	9	7	4	9	2	4
Miller Act	3	2	9	1			1	2	1	6	6	5	8
State habeas corpus	5	29	16	24	31	18	34	30	26	25	24	34	10
Labor cases	5	14	9	10	6	13	5	8	14	13	11	15	12
Antitrust	2	3			1		1	1	1		2		1
Patent	12	7	8	7	6	8	5	8	13	6	14	4	10
Copyright and trademark	1	3	3	2	2	3	9	4	10	9	7	6	4
Civil rights	4		1	2	2	1		5	7	3	7	14	13
Other	9	14	8	13	23	2	6	5	10	5	8	13	15
Diversity of citizenship, total	300	190	196	224	212	266	316	380	389	389	538	383	512
Contract actions	71	35	39	29	32	40	50	66	65	68	89	84	98
Stockholders' suits	1		1						1	1	1		1
Real property	4	3	3	9	11	16	34	50	37	26	31	28	22
Personal injury, motor vehicle	161	115	104	123	122	161	180	197	214	213	300	175	268
Other personal injury	50	31	48	59	41	45	45	63	59	73	105	92	114
Other	13	6	1	4	6	4	7	4	13	8	12	4	9

TABLE 4.—U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA—CRIMINAL CASES[1] COMMENCED AND PENDING ON JUNE 30, 1967, AND JUNE 30, 1968, BY NATURE OF OFFENSE

Offense	Criminal cases						
	Commenced				Pending June 30, 1967	Commenced 1968	Pending June 30, 1968
	1964	1965	1966	1967			
Criminal cases, total	167	225	210	154	52	209	83
General offenses:							
Homicide						2	2
Robbery	2	13	7	3	4	17	4
Assault		1		3	1	2	
Burglary		1	3			1	
Larceny and theft	21	35	16	11	5	15	10
Embezzlement	10	16	13	8	1	14	3
Fraud	15	12	2	7	4	13	7
Auto theft	64	60	59	56	14	60	17
Forgery and counterfeiting	28	24	22	6	4	27	8
Sex offenses	1	1	4				
Narcotic laws	3	14	8	15	6	7	3
Miscellaneous general offenses	2	5	22	8	4	9	5
Special offenses:							
Immigration laws	2	1	5	4	1		
Liquor, Internal Revenue	3	5	24	3		5	1
Selective Service Act	3	4	7	5	5	20	12
Other Federal statutes	13	33	18	25	3	17	11

[1] Excludes transfers.

TABLE 5.—U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA

[Time interval from issue to trial of civil cases[1] in which a trial was completed]

Fiscal year	Number of trials	Median[2] time interval (in months)	National median time interval (in months)
1961	36	17	11
1962	19		10
1963	63	23	10
1964	56	19	11
1965	66	17	11
1966	68	16	11
1967	67	16	12
1968	75	17	12

[1] For both tables 5 and 6 excludes land condemnation cases. For table 5 also excludes habeas corpus cases, deportation reviews, and motions to vacate sentence.

[2] Not computed where base is 25 or less.

TABLE 6.—U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA

Age of civil cases[1] pending at the end of fiscal years

Fiscal year	Total	Less than 1 year	1 to 2 years	2 to 3 years	Over 3 years	
					Number	Percent
1961	581	371	132	49	29	5.0
1962	673	364	203	71	35	5.2
1963	677	397	184	74	22	3.2
1964	668	404	175	73	16	2.4
1965	644	425	172	33	14	2.2
1966	706	465	182	43	16	2.3
1967	739	435	228	64	12	1.6
1968	704	435	195	63	11	1.6

[1] For both tables 5 and 6 excludes land condemnation cases. For table 5 also excludes habeas corpus cases, deportation reviews, and motions to vacate sentence.

TABLE 7.—WEIGHTED [1] CASELOAD FOR JUDGESHIP FOR ALL U.S. DISTRICT COURTS AND FOR THE NORTHERN DISTRICT OF INDIANA

Fiscal year	Number of district courts in the United States	Number of judgeships		Weighted [2] caseload per judgeship						
				Civil		Criminal		Total		
		United States	Northern Indiana	United States	Northern Indiana	United States	Northern Indiana	United States	Northern Indiana	
									Number	Rank [2]
1962	87	289	3	185	138	57	31	242	169	68
1963	88	289	3	195	156	56	32	251	188	66
1964	88	289	3	207	201	57	30	264	231	55
1965	88	288	3	214	234	60	41	274	275	34
1966	87	318	3	200	258	55	44	255	302	18
1967	89	322	3	198	230	54	29	252	259	37
1968	89	323	3	207	239	58	42	265	281	31

[1] Based on civil and original criminal cases filed. The weighted caseload reflects the amount of court time used for types of civil or criminal cases divided by the proportions of total terminations. A description of the method used appears on pp. 156–161 in the Annual Report of the Director of the Administrative Office of the U.S. Courts, 1964. The weighted caseload per judgeship refers only to the overall average per judgeship for each district as provided by 28 U.S.C. 133. Therefore, the number of judgeships does not include the services of senior judges or services of visiting judges. In computing the weighted caseload for the United States the District of Columbia and territories are excluded.

[2] Refers to the rank of the district court compared to all of the district courts for the year indicated. The lower the ranking the higher the average weighted caseload.

COMMITTEE MEETINGS DURING SENATE SESSION

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

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL NOON TOMORROW

Mr. KENNEDY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until noon tomorrow.

The VICE PRESIDENT. Without objection, it is so ordered.

(Later in the day, the Senate modified its order, to provide for an adjournment until 11 a.m., tomorrow.)

DEATH OF REPRESENTATIVE WILLIAM HENRY BATES, OF MASSACHUSETTS

Mr. PASTORE. Mr. President, it is with a very heavy heart that I express my deep sorrow on the passing of a dear colleague and close friend, Representative WILLIAM H. BATES, of Massachusetts.

He and I were associated on the Joint Committee on Atomic Energy for quite a number of years. We came to know each other well during this association. I dare to say that in all my life I have never met a man who was finer and more decent than BILLY BATES. He was an exemplary father and husband, a devoted public servant, and a great American. I know that Congress will miss him, and miss him sorely.

I extend my deepest sympathy to his very lovely family.

Mr. KENNEDY. Mr. President, BILL BATES was in the great tradition of Congressmen who are servants not only of their districts but of the Nation as well. All who worked with him respected him for his dedication to his constituents and to his country.

Over the years, the Massachusetts congressional delegation met periodically on Massachusetts' problems as the need arose and communication between members of the delegation was sometimes very frequent. I came to know BILL BATES in this way. I can say, Mr. President, that whether the problem was a labor-management conflict in Lynn or shoe imports in Haverhill or Salem, BILL's knowledge of the problem was thorough, his compassion real and his dedication not only obvious but effective.

The people of his district were proud of their representative in Congress and the people of Massachusetts take great satisfaction in his service to the Nation.

As a public servant, he was outstanding and as a friend he was sensitive and steadfast. His death is a loss to us all.

THE TAX REFORM BILL

Mr. METCALF. Mr. President, on April 22 the House Committee on Ways and Means completed 28 days of public hearings on the question of tax reform. Those hearings began last February with the benefit of 2 years of staff studies, together with proposals regarding tax reform which the then Secretary of the Treasury Joseph W. Barr submitted to the present Secretary David M. Kennedy on January 17 of this year. Twelve days later those studies were made available to the House Committee on Ways and Means.

An examination of those studies, together with a reading of the testimony gathered in the public hearings, simply confirmed the fact that although the Federal income tax is designed to be progressive, many persons with substantially high incomes actually pay either no tax or the same effective rate of tax as do persons with incomes only a fraction as large. What this all adds up to is that the wealthy pay far less than their fair share of taxes, while others suffer special hardships to meet their tax liabilities.

I do not intend to vote for an extension of a surtax on top of an established inequitable tax structure unless I have a comprehensive package of tax reform to consider right along with the surtax. The need for overhauling our tax laws is nothing new or startling. What these latest hearings have revealed is simply that with the passage of time, the situation only continues to get worse.

Mr. President, I want to go on record now in opposition to any extension of the surtax without tax reform because the only choice open to the other body this week will be to vote it up or down. Fortunately, in the Senate we will be able to debate this subject at some length, and I, for one, intend to take advantage of that opportunity.

"JUST HOW BAD ARE THINGS"—COMMENCEMENT ADDRESS BY HEDLEY DONOVAN AT CARNEGIE-MELLON UNIVERSITY

Mr. DIRKSEN. Mr. President, the distinguished editor in chief of Time magazine gave a commencement address at Carnegie-Mellon University, better known as Carnegie Tech.

I allude to only one matter which rather intrigues me because he said to the graduates:

> You are graduating just in time to get in on the ground floor of a golden age.

That statement is quite at variance with all the pessimistic philosophy and observations we hear expounded on all fronts today. Therefore, this is a refreshing note.

I think it is great on the part of Mr. Donovan to say that graduates are just getting out of school in time for the golden age. Why should there not be a golden age now, and later golden ages for future graduating classes. I wish every one of them well.

I think anyone who strikes that kind of felicitous note should have his remarks given wide coverage. Mr. President, I ask unanimous consent that the commencement address by Mr. Hedley Donovan to the graduating class at Carnegie-Mellon University be printed in the RECORD.

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

JUST HOW BAD ARE THINGS?

(By Hedley Donovan, editor in chief, Time, Inc., Publications)

I was out on Michigan Avenue one night last summer, when Senator McCarthy's disciples, and Mayor Daley's police, and the Hippies and Yippies and National Guardsmen were milling around in the so-called Battle of Chicago. I even inhaled a little tear gas, and I was beginning to feel like a real front-line reporter. Then as the police started to form up for another of their sweeps, a couple of the flower children moved right up behind me, and I heard the young man say to the girl, "Just stay behind this businessman and we'll be all right."

Somehow I wasn't too flattered. Not that I have anything against businessmen; they certainly have their uses. But the journalist thinks of himself as a rather dashing, rebellious sort of fellow—and as a matter of fact some journalists did get their heads cracked in Chicago.

This morning, of course, I must leave it to you whether I sound like a reporter or some painfully square, dues-paying member of the Establishment. My proposition this morning is in fact an unconventional one. Some of you may find it outrageously so. My thesis is that we Americans, in this June of 1969, are not in a total mess.

It is a strange hour in our history. In the

past four years—your college years—this country has suffered certain forms of failure, disillusionment and fear that no Americans before us have known. We have also, in these same four years, accomplished a prodigious amount of work; we have come safely past some kinds of danger; and I would argue that as a country we have been maturing in some interesting ways.

The American conditions is almost anything you want to prove. Without exaggerating any particular item of evidence—just by careful selecting of the items—it is possible to demonstrate that this Class of 1969 is graduating out into a nation in the last stages of social, political and moral decay. Also without exaggerating, just by selecting—and this takes *very* careful selecting—it is possible to show that you are graduating just in time to get in on the ground floor of a Golden Age. Which kind of evidence one hunts hardest for is perhaps a matter of individual temperament or chemistry. I myself have a weakness for optimism. This in spite of spending many years in a profession which goes to a tremendous amount of trouble to make sure that all of you know all the bad news as promptly as possible.

Even a chronic optimist must recognize, I think, that this country has entered a great internal crisis, the third in our history. The first came to its climax in the Civil War. The second, which scarred this city and so many others, and marked the lives of all your parents, was the Great Depression of the 1930's. The third crisis has developed late in these 1960's, and it still lacks a name.

That first internal crisis of more than a century ago turned upon a simple moral wrong, slavery, and a not so simple constitutional issue, secession. The second internal crisis, a generation ago, was economic. Today's crisis is essentially social. The structure, the priorities and the purposes of American society have come under severe challenge. Here is America, fantastically prosperous, brilliant at politics—when else in history has there been so powerful a government that was both stable and democratic?—and yet the social fabric of the United States seems at times stretched to the ripping point.

The specific components of the crisis are painfully familiar to all of you. First, of course, is the continuing injustice that America does the Negro, the rising militance and anger of the Negro mood, and all the churning emotions aroused among whites, including terror. Second is the campus, where because of the race problem, and also because of Viet Nam and the draft, but surely also because of affluence, and liberation from the old bread and butter anxieties, a very capable and zealous minority have been able to mount a rebellion that has indeed shaken the pillars of the Establishment. Third is a general unease and indignation, affecting those over the notorious Age 30 line more than those under, that nothing is working right, especially nothing urban: why must I every day walk past so much uncollected filth in the streets of New York, the richest city in human history? Fourth and last, not unique to America but intensifying our specially American problems, is the whole moral unmooring of mid-Twentieth Century Western man: the decline of formal religious belief, the decline of the conventional sex codes, the decline of traditional patriotism. I won't stop this morning to argue whether any of these particular declines are bad or good things, but we do have to note that when so much belief is taken away, men either must find new belief, or else they will be more and more caught up in the ordinary mechanics of living, and then if even the mechanics seem to be coming apart . . . a society without idealistic commitment is deep in trouble.

As to the chronology of the present American crisis I would date it from Watts, August 1965, the very late hour when so many Americans first glimpsed the extent of our failure in the race question. The crisis built up in 1966–67 with the mounting doubt as to whether we could or should succeed in Viet Nam. It has continued with a whole rollcall of ghetto and college names: from Newark and Detroit to Harvard and Cornell.

A few weeks ago the London *Economist* published a special report on the United States under the title "The Neurotic Trillionaire." The *Economist*, which does not get excited easily, said the fact that America has virtually mastered man's economic problem "is almost certainly the most momentous news-story so far in the history of the world." They also observed that "this society which represents man's greatest secular achievement sometimes seems to be on the edge of a national nervous breakdown."

Let me turn to some of my reasons for thinking we might just barely avoid that national nervous breakdown, and might work our way through our crisis. First, we really *are* going to be a trillionaire. It will happen, with something to spare, by the end of 1971. The gross national product will run to about $925 billion in 1969. I hope it's not too vulgar of me to mention these sums of money. A trillion dollars can buy a lot, even at 1971 prices. And I would rather be wondering how best to use our immense economic assets than wondering, as were so many of the commencement speakers in my graduation year, whether the U.S. economy could be made to work at all. There are many ways to slice the foreseeable growth in national production over the next thirty months. For just one example, we could allow private spending to raise by $70 billion, which is equal to the total national product of Canada, and at the same time double the present level of federal spending for housing, health and education.

Do we have the brains to make the best uses of our prosperity? We have in fact been training brain power at a rate that all th rest of the modern world marvels at. There are economists and scientists in western Europe who, despite the unprecedented prosperity of their own countries, and despite large expansion in their own educational systems, see the American brain margin steadily widening for decades ahead—precisely because of scenes like the one here this morning. In this academic year 1968–69 the U.S. has had seven million students in some 2,400 colleges and universities. We probably must admit that some of the 2,400 don't really deserve to be called colleges, and perhaps a few of the seven million don't deserve to be called students. Even so, it is still an extraordinary effort and achievement in higher education. This same American campus which keeps frightening and fascinating so many of us, this place of long hair and locked-in deans and four letter words, is also a place of immense promise for our national future. I must say that the student rebels, however bad their manners and however monumental their self-righteousness, have indeed attacked some geninue weaknesses in the structure of universities and precipitated some overdue reform. Beyond that, I find the things the student rebels say are almost as interesting as the way the old, square world of parents, administrators, alumni and trustees *listen*—a truly impressive example of democratic tolerance and of willingness to learn, even at advanced ages. And a sign, as I see it, that there may be considerable health in our society after all. May all of you of the Class of 1969 be as open-minded 20, 30, 40 years from now, when your children will be saying . . . who of us knows what they *will* be saying?

And there is another attitude, quite widespread in our society, that I find encouraging. Next month, very probably, Americans will land on the moon. In all the proud commentary on that event, and in all the praise for the people who have made it possible, including such scientists as President Stever (Carnegie-Mellon University President, H. Guyford Stever), there is also going to be a wonderfully American theme struck over and over again. We have already heard it in all the sermons and editorials after last month's triumphant flight of Apollo 10. If we can go to the moon, so the sermon runs, why can't we master the problems of the ghetto? I think there is an inspiring foolishness about that question. A foolish question because the answer is so obvious—i.e., the ghetto is a tougher problem than the moon, and that's how we came to solve the moon first. An inspiring question because it reasserts the old American faith that anything is possible, including the improvement of people.

We shall need all that faith as we continue to toil with the question of race, for here we are trying to do nothing less than change people, inside the ghetto but especially outside. My colleague Charles Silberman of *Fortune*, in his perceptive book *Crisis in Black and White*, predicted five years ago that as the race situation grew better it would get worse. As various objective measurements of Negro progress—income per capita, educational opportunity, and so on, improved, as indeed they have, the disparity between these levels and white privilege would grow steadily more offensive. "It is a commonplace of history," Silberman wrote, "that revolutions stem from hope not despair, from progress, not stalemate." So we shall seek more progress and risk more revolution, heartened perhaps by a little extra light from Apollo.

I am not going to detain you this morning, you will be relieved to hear, with a total inventory of national strengths and weaknesses. If I were, I would want to talk, for instance, about pollution—air, water, noise, billboards, automobile graveyards, etc.; I would want to praise the pioneering work of Pittsburgh and lament the steady deterioration of New York. And then I would want to talk for a while about the situation in Washington; I would want to give a rather mixed report card, for this first semester, to the new Nixon Administration.

Before I conclude, however, I do want to touch upon some changes in our position in the world, changes which may give us a freer hand in dealing with the shortcomings of our own society.

I think the danger of World War III, perhaps never very great, has declined further during your college years.

I have spent a litte time this year in Russia, the Middle East and Viet Nam. You see that journalistic affinity for bad news I spoke of earlier—except the news really wasn't so bad.

For students of bad news, that was a nice comment the other day by the State Department officer who gives Secretary Rogers his morning briefing. The Secretary complained that there never seemed to be any good news. The young man replied: "Mr. Secretary, there is never any good news, but there is sometimes bad news for which we are not to blame. There is a report that the Aswan Dam is leaking."

The Dam did not appear to be leaking when I saw it last month. And the Middle East, all in all, did not seem to be on the brink of exploding.

In Viet Nam we are slowly de-escalating, and I am one of those who think the history books will eventually say we did accomplish some good, at high cost, by being there.

I think it is very possible that within a year or two the world around us will look less menacing to the United States than at any time since the rise of Hitler. I like a lot of the suggestions that are being made in universities, in Congress, in the press, for new accents in American foreign policy, not isolationist but less dependent on military commitments, more reliant on trade and other private American endeavor in the world. I welcome the major debate that has been developing over the Safeguard ABM system—perhaps a democracy actually *can* hold a responsible public discussion on a major mat-

ter of military technology and diplomatic strategy. I think myself that the "military-industrial complex" is a myth, and a distracting one, but I am glad to see military budgets and military efficiency coming under much more rigorous review. All these things, without implying retreat from our fundamental interests or obligations abroad, could mean more resources for meeting the American social crisis.

Thornton Wilder observed in 1950: "Americans are still engaged in inventing what it is to be an American." It is still true today.

This Carnegie-Mellon Class of 1969 is surely going to have a hand in the invention. I congratulate each of you on what you have already accomplished, and I wish you well in all that you are about to do.

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

The VICE PRESIDENT. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

CENTER FOR VIETNAMESE STUDIES AND PROGRAMS

Mr. DIRKSEN. Mr. President, it has been brought to my attention that one of the leading universities of our great State has recently established a new center which I believe should be of interest to all of you and gives promise of being a great addition to the American academic community. Southern Illinois University has had approval from its own board of trustees and from the board of higher education of the State of Illinois for a Center for Vietnamese Studies and Programs, which will be located on its Carbondale campus.

Attention is being given to the fact that it is essential we begin now to consider the needs for the reconstruction of Vietnam and how best to accomplish this task that we hope will be upon us soon. President Nixon and other national leaders have referred to this need in recent public statements. Unfortunately, as I see it, we have no major university in our country carrying forward a specialized program dealing specifically with Vietnam even though we have spent over $100 billion and lost over 35,000 lives in that country.

The broad mission of the Center for Vietnamese Studies and Programs is indicated by the following major reasons for its establishment:

First. The involvement of the American people in Vietnam is unique in our history. Despite the trials of war, American universities have played a significant role in this involvement by providing assistance to Vietnam with respect to that nation's educational and social goals. The American involvement undoubtedly will extend to the postwar reconstruction period in Vietnam. And, American universities—among which SIU is uniquely qualified by reason of its involvement in Vietnam since 1961—undoubtedly will be asked to participate in the American response to the challenge of postwar reconstruction for Vietnam. SIU is desirous of such participation, as a service to the Nation and to the world.

Second. SIU educational experience—and indeed, also, that of other American universities—in Vietnam since 1961 needs to be thoroughly researched in terms of seeking ways to infuse that experience generally into the academic lifestream of higher education in the interest of academic relevance with respect to one of the major world issues of our times.

Third. Research is required, and revised or new programs must be devised, to make education more relevant especially for veterans of the war in Vietnam—some 26,000 Illinois veterans have served in Vietnam to date. And such veterans constitute a unique manpower pool of individuals who could serve in the postwar reconstruction of Vietnam—provided appropriate educational and training programs are devised for and made available to them.

Fourth. The proposed center, with its focus on Vietnam, can develop means and ways for more effective university assistance to the reconstruction of other present and future war-torn areas of the world—that is, a multiplier effect may accrue from the operations of this particular center.

It is planned that the center will have educational, research, and service functions. As an educational organization, it will offer assistance to academic units of the university for the development and staffing of selected Vietnamese studies as part of the curriculum of the institution. A major project in this connection will be the development of a special educational and training program for selected veterans of the Vietnamese war for service in the postwar reconstruction of Vietnam. As a research organization, the center will: assess SIU experience in Vietnam to date; serve as a depository for Vietnamese materials and materials about Vietnam; and, conduct research needed for the development of new proposals for assistance to Vietnam. And, as a service organization, the center will: assist with the backstopping of current SIU/AID contracts in Vietnam and of any new SIU activities in that country once aproved and implemented; and provide special consultant and training services to—for example—governmental agencies and foundations.

Many of the veterans upon returning from Vietnam have expressed a desire to return to that country and assist with the job of rebuilding. President Nixon has appointed a task force to be headed by Mr. Johnson, his nominee to be Administrator of the Veterans' Administration, to look into the reasons that Vietnam veterans are not participating more actively in the veterans programs for training after leaving service. Southern Illinois University's Vietnamese center may hold a partial solution to this problem. One of the more forward looking programs to be established is one called VET—Vietnam education and training program.

The operation of the program will have two major phases, as follows: Phase 1: Beginning the fall quarter of 1969, and enrolling selected American veterans at the freshman level for the associate degree, at the junior level for the bachelor's degree, and at the graduate level—to produce, respectively, technical, professional and administrative personnel by 1971. Phase 2: Beginning as soon as external sponsorship and financial support can be obtained, and enrolling selected Vietnamese veterans. Phase 2 will require a counterpart VET facility in Vietnam to help select participants, to provide orientation prior to their departure for SLU to enroll in the campus VET program, and to receive and orient VET graduates prior to specific assignment in Vietnam. As phase 2 develops, it will enable VET to produce teams of American and Vietnamese veterans for service in postwar Vietnam.

The overall VET program will: First, involve appropriate existing programs at the associate, bachelor and graduate degree levels, using to the maximum extent possible faculty members who have served in Vietnam—for teaching and advisement functions; and, second, have a special Vietnam-focused training program to include, for example, instruction in Vietnamese history and culture, language—Vietnamese and French, life and living in Vietnam, community development theory and practice, and human relations—using to the maximum extent possible both American faculty and advisers who have served in Vietnam and Vietnamese faculty and advisers, for teaching and advisement functions. Headquarters for the Vietnam program will be at the university's Little Grassy Lake facilities, in a "Vietnamese village." The VET facility in Vietnam also will be used for training purposes.

It is my understanding that AID and the Office of Education have been looking to the possibility of assisting with the funding of this center. This is to be commended and other agencies of the Federal Government should do likewise. This is an important program.

Mr. President, I think this is, indeed, a very timely and extraordinary proposal which Southern Illinois University makes. It is high time that we have a major educational institution in the country that is willing to undertake this, because it is a job that inescapably confronts us and it must be done.

ORDER OF BUSINESS

Mr. KENNEDY. Mr. President, I suggest the absense of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. BYRD of 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.

FUTURE STATUS OF OKINAWA

Mr. BYRD of Virginia. Mr. President, on May 29, just prior to the visit of the Japanese Foreign Minister to the United States, I addressed the Senate on the future status of Okinawa.

Under the 1952 Treaty of Peace with Japan, the United States was granted the unrestricted use of the island of Okinawa in the far Pacific. On this island,

we have our greatest Pacific military base complex.

The Japanese Government is seeking administrative control of Okinawa, which is to say that it wants a veto over any U.S. action affecting Okinawa. It specifically wants the right to deny the United States the authority to store nuclear weapons on Okinawa, and would require prior consultation before our military forces based there could be used.

In speaking to the Senate, I expressed the view that it is debatable whether the United States should continue to guarantee the security of much of Asia.

But I expressed the view, too, that if we are to continue to guarantee the security of the Asian nations—and our Government has not advocated reducing these commitments—then it seems only logical, sound, and responsible that the United States continue to have the unrestricted use of its greatest base in the west Pacific; namely, Okinawa.

It would be foolhardy, in my judgment, to commit the United States to defend most of the Far East and then to give away this country's unrestricted right to use its military bases on Okinawa.

For 4 years we have fought the war in Vietnam with one hand tied behind our back. Let us not be so foolish now as to get into a similar position by giving someone else control over our principal military complex.

My Senate speech on Okinawa was published throughout Asia. Such newspapers as Asahi in Tokyo published the full text.

The Japanese newspapers, of course, do not agree with my view. It was given full coverage, however, by such papers as the Japanese Times and Yomiuri, which ran it in both its Japanese and English editions.

The future status of Okinawa is the most burning political issue in Japan.

The purpose of my speech was to focus public attention on what I consider to be a matter of great importance—assuming our Nation plans to continue to play a major role in the far Pacific.

Even the New York Times said in discussing the Japanese Foreign Minister's visit to Washington that—

> The Japanese must recognize that they cannot continue to enjoy the luxury of American protection without making some sacrifices on their own on behalf of mutual security.

While my speech received a cool reception in Japan, it appears to have helped focus attention on an important problem. It received support from the Shreveport, La., Journal; the Birmingham, Ala., News; the Lynchburg, Va., News; the Northern Virginia Daily, Strasburg, Va.; the Hartford, Conn., Courant; the Phoenix, Ariz., Republic; and the Nashville, Tenn., Banner, as well as from Chicago Tribune columnist, Walter Trohan.

I received the following telegram from the Chamber of Commerce of the United States in Okinawa:

> Applaud your speech in the Senate 29 May stop Please air mail copy complete text.

I also received the following telegram from the Patton Crosswhite Post 6975, Veterans of Foreign Wars, Bristol, Va.-Tenn.:

Members oppose the return of Okinawa to the Japanese Government.

I ask unanimous consent that the text of various editorials mentioned above be published in the RECORD at this point—and following these editorials, that one written for the Hearst Newspapers captioned "Okinawa Surrender" be published in the RECORD, to be followed by an article from the Christian Science Monitor datelined Tokyo and written by the Monitor staff correspondent, David K. Willis, captioned "Nuclear Question Underlies Okinawa Parley," and followed by an editorial from the New York Times, captioned "A Visitor From Japan."

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

[From the Shreveport (La.) Journal, May 30, 1969]

OKINAWA VITAL TO U.S. SECURITY

So long as the United States maintains its role as the defender of the Far East, the continued unrestricted use of this nation's military bases on Okinawa is vital and fundamental to the security of America and the rest of the free world.

This is the warning sounded by U.S. Sen. Harry F. Byrd Jr. of Virginia on the eve of a visit to Washington by the Foreign Minister of Japan, who will be in the United States to discuss the future status of the Island of Okinawa.

Senator Byrd, in a speech to his colleagues Thursday, said the U.S. Senate, under the Constitution, has a responsibility for foreign policy, but that too often during the past 25 years the Senate has abdicated this responsibility and relied instead on the Department of State.

Today the United States has become the policeman of the world, having entered into mutual defense agreements with 44 nations.

Senator Byrd asks, "Can we logically continue in this role? Should we, even if we could?

"Twenty-four years after the defeat of Germany we have 225,000 troops in Europe, mostly in West Germany.

"Twenty-four years after the defeat of Japan, we have nearly 1,000,000 military personnel in the Far Pacific, on land and sea."

Behind Japan's efforts to regain administrative control of Okinawa are many factors, one of which is the political fate of Prime Minister Sato. Leftist elements including the Socialist and Communist parties and radical student groups, have demanded that the United States withdraw completely from Okinawa.

The United States has had unrestricted use of Okinawa since World War II. The status of the island was determined by the 1952 Treaty of Peace with Japan. There is no legal obligation on the part of the United States to discus reversion of the island to Japan at this time or any other time.

As analyzed by Senator Byrd, "The Japanese Government wants the United States to continue to guarantee the safety of Japan; to continue to guarantee the safety of Okinawa; to continue to spend hundreds of millions of dollars on Okinawa ($260,000,000 last year). But, it seeks to put restrictions on what the United States can do.

"Japan wants a veto over any U.S. action affecting Okinawa. It specifically wants the right to deny the United States the authority to store nuclear weapons on Okinawa and would require prior consultation before our military forces based there could be used."

In defense matters, the Virginia senator pointed out, the Japanese have been given a free ride. As a direct result, Japan's present gross national product is more than one hundred and twenty billion dollars a year and ranks third in the world, behind only those of the United States and the Soviet Union. Japan's expenses for its own national defense are less than one per cent of the value of its gross national product.

For four years the United States has fought the Vietnamese war with one hand tied behind its back. To relinquish control of Okinawa to the Japanese at this time—regardless of our friendship with the country—would be to further cripple ourselves for the benefit of others.

Senator Byrd deserves the gratitude of all Americans for his alertness and for his forthright stand against an action which could destroy the military security achieved for this nation by the men who gave their lives to take Okinawa in World War II.

[From the Birmingham (Ala.) News, May 30, 1969]

OKINAWA: NOT NOW

Printed on the opposite page today are excerpts from a speech made in the U.S. Senate yesterday by Sen. Harry F. Byrd, Jr., of Virginia.

The subject of the speech is Okinawa, and it is timely because the Japanese minister arrives in Washington tomorrow for talks on the status of that island.

American forces captured Okinawa in the last major land battle against Japan in World War II. Since then the U.S. has administered the affairs of the island. Important military bases are maintained there under the terms of the peace treaty.

Under a separate agreement—the U.S.-Japan Mutual Security Treaty—the U.S. maintains troops in Japan itself. But, as Sen. Byrd pointed out yesterday, there are restrictions imposed on the use of U.S. forces based in Japan.

Increasingly in recent years there has been agitation in Japan against *both* the Mutual Security Treaty, which will be up for renegotiation next year, and U.S. control of Okinawa. But it is important to keep the two issues separate.

There may be modifications next year in the Mutual Security Treaty binding the two one-time enemies. This is a legitimate subject of negotiation and agreement—or, if the two nations so conclude, of disagreement.

The News believes that extension of the security treaty is in the national interest of both countries. Scrapping it would force the U.S. to re-think much of its Pacific strategy; it also would impose dramatic new responsibilities on the Japanese government which, under the protection of the U.S. defense umbrella, has achieved a near miraculous economic reconstruction without the nasty necessity of worrying much about its national defense.

But this newspaper does not believe that the U.S., in exchange for renewal of the security agreement—which as we say, is of at least as much importance to Japan as to America—need succumb to pressure on the at-this-point extraneous issue of Okinawa.

To repeat: The two things are distinct and separate, despite the efforts of militant Japanese leftists to lump them into one big anti-American "cause."

With Sen. Byrd we assume that someday administrative control of Okinawa will revert to Japan. But it would be foolhardy under the present circumstances, when we are deeply involved in a war in Southeast Asia and committed to a border defense role in alliance with non-Communist nations in the region, to hand over or agree to hand-tying restrictions on the use of one of the key American military outposts in the Western Pacific.

We hope that the talks with the Japanese foreign minister will be cordial and constructive. But the Tokyo government should be given to understand that the question of Okinawa's reversion to Japanese control must wait more propitious times and meanwhile should not be allowed—by Tokyo or by us—to damage the good and mutually beneficial relations which have existed between the two

countries since World War II or to poison the atmosphere in which the important forthcoming negotiations on the Mutual Security Treaty will be conducted.

As usual, Harry Byrd talked sense in the Senate yesterday. This is a refreshing change from what we too often hear from some other members of the august body, whose attacks on the U.S. defense establishment and quaint views on national security resemble nothing much as an apparent national death-wish

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[From the Lynchburg (Va.) News, June 4, 1969]

OKINAWA

Senator Harry Byrd Jr. made some valuable comments in the Senate last week on Japan's efforts to regain control of the island of Okinawa, which is our major military base in the Far East.

Emphasis was placed by Senator Byrd upon our military involvements and the fact that the Senate has perhaps left too much to the State Department and the Senate too often abdicated its responsibility in foreign affairs. He seeks to arouse that body to the exercise of these responsibilities, and does so as the Japanese Foreign Minister arrives to discuss Okinawa.

The essense of his position is in the sentence: "As a practical matter, we have become the policeman of the World."

The Japanese Foreign Minister's visit is, as he said in the Senate, due to: "The status of the island has become the most inflammatory political issue in Japan; a clamor is rising among Japanese and Okinawans for the reversion of the Ryukyu Islands to Japanese administration."

The effort of the Left in Japan, Senator Byrd said, ". . . reminds one of the effort of elements in Panama to blackmail the United States into giving up the Panama Canal. The administration of President Johnson drew a treaty to meet the demands of the Panamanians, but strong opposition in the Senate kept the President from bringing the issue to a vote."

One dominantly clarifying item was in Senator Byrd's message in relation to Okinawa: "The status of Okinawa was determined by the 1952 Treaty of Peace with Japan. There is no legal obligation to discuss reversion of the island to Japan at this time or any other time." And this peace treaty is entirely separate from "the 1960 Mutual Defense Treaty with Japan."

In listing the matters at issue between the two countries over Okinawa, Mr. Byrd brings out the pertinent facts and they constitute a strong, wholly adequate and necessitous case for the United States to hold and administrate Okinawa for as long as is necessary it being "vital if the United States is to continue to have obligations in the Far East." And it is perfectly clear that the United States has and will continue for a long time to have these obligations.

So concisely pertinent is Senator Byrd's address to the importance of our holding Okinawa, and to our overall relations and predicaments in the Far East, that it is worth filing as a ready and relatively brief reference to the situation as it exists and is likely to continue for a long while.

We occupy a tragic situation in the Far East; this is a situation in which we could have avoided heavy commitment, but the commitment was made, is too complicated for extrication, and must be seen through with power and the bases of power we hold.

[From the Northern Virginia Daily, May 31, 1969]

A REALISTIC VIEW

Unless there is a last minute revision in schedules, the Foreign Minister of Japan will arrive in Washington today for a working session with the U.S. State Department. The Japanese objective is the future status of the Island of Okinawa and the hope that the U.S. will return administrative power in the island to the government of Japanese Prime Minister Sato.

Since World War II, Okinawa has been the principal U.S. military base in the Pacific area. It has been under the complete administrative and military control of the U.S.

Pressure is mounting among the Japanese and the Okinawans, fomented by a growing clamor from Japanese leftist groups and other radical elements, for a return of administrative control to Japan.

The demand is complicated by the fact that, among the many commitments for military defense which the U.S. now has throughout Southeast Asia, under the U.S.-Japanese Mutual Security Treaty the U.S. also guarantees the freedom and safety of Japan.

Apparently, the Japanese have no wish to abrogate the security treaty. While they find administrative control in the hands of the U.S. irksome, they obviously are quite satisfied to have this country continue to protect them and guarantee their freedom from attack.

Virginia's Senator Harry F. Byrd, Jr., in a speech on the Senate floor Thursday, took strong issue with this development. Attacking the Japanese suggestion that the U.S. should give up administration of the Ryukyu Islands, the largest of which is Okinawa, Sen. Byrd stated:

"We are the dominant party in the North Atlantic Treaty Organization, the purpose of which is to guarantee the freedom of Europe; we are the dominant party of ANZUS—the treaty among Australia, New Zealand and the United States; we are the military head of CENTO—Central Treaty Organization—Turkey, Iran and Pakistan; we are the dominant partner in the Southeast Asia Treaty Organization, one of the prime reasons, according to former Secretary of State Dean Rusk, that the United States became involved in the war in Vietnam; we have guaranteed the security of Free China, and we have guaranteed the security of Japan.

"As a practical matter, we have become the policeman of the World.

"Whether the United States should continue to guarantee the freedom of Japan, and Free China; whether we should continue the mutual defense arrangements covering the eight countries signing the Southeast Asia Treaty; plus the Philippines; plus Australia and New Zealand; plus Thailand, Laos and Vietnam, is debatable.

"But what is clear-cut common sense, in my judgment, is that if we are to continue to guarantee the security of the Asian nations—and our government has not advocated scrapping these commitments—then I say that it is only logical, sound and responsible that the United States continue to have the unrestricted use of its greatest base in the West Pacific, namely, Okinawa."

We consider Sen. Byrd's evaluation a valid and sensible view. As he pointed out, whether we should continue our far-flung commitments in the Far East is debatable, but as long as we are committed, surrender of control of our most strategic military base in the Asian area "would only make more difficult our role in the Pacific."

In other words, if we are to continue to be the policeman in Asia, as well as Europe, we must be in a position to blow the whistle.

[From the Hartford (Conn.) Courant, May 30, 1969]

SENATOR BYRD'S REALISTIC STAND ON OKINAWA

The remarks about Okinawa made by Senator Harry F. Byrd Jr., of Virginia, on the floor of the Senate yesterday proved as perceptive as they are urgent.

As long as the United States maintains its significant role in the Far East, Senator Byrd said in sum, the continued unrestricted use of American military bases on the large Ryukyu island is vital and fundamental.

The Senator spoke in anticipation of the visit by the Japanese Foreign Minister who comes to Washington this weekend to discuss the future status of Okinawa. That the present Japanese government appreciates—and well should—the part played by the United States in the defense of Japan as well as of Asia to the southeast in general, can probably be taken for granted. Nevertheless, Premier Sato's Liberal-Democratic Party is under utmost pressure by the Leftist opposition to secure the return of Okinawa to Japanese control, and the party is plainly seeking to shore up its position by advocating this reversion.

Senator Byrd points out that the mutual security treaty between the United States and Japan comes up for review next year. He stresses however that the issue of Okinawa is quite a separate one. The status of Okinawa was determined by the 1952 peace treaty with Japan and, as the Senator rightly observes, there is absolutely no legal obligation to review it this time in some fancied context with the defense treaty.

While Japan probably would not seek to remove American bases from Okinawa, it does specifically want the right to deny storage of United States nuclear weapons there, and to prior consultation before American forces based there could be used.

The fallacy of such restriction is made plain enough by Senator Byrd. It is interesting to note that the Senator calls "debatable" the question of whether the United States should continue to play so large a part in the defense of the Far East. Yet this adds all the more weight and credence to his conclusion that if we are going to guarantee the security of Asian nations, "it is clearcut common-sense—logical, sound and responsible—that we also continue to have unrestricted use of our greatest base in the West Pacific, namely Okinawa."

The Senator feels the eventual revision of Okinawa to Japan may take place. But certainly the time is not now, as he points out. "For four long years we have fought the war in Vietnam with one hand tied behind our back . . . Let's not be so foolish now as to get into a similar position by giving someone else control over our principal military complex."

That is Senator Byrd's advice to his colleagues and to the country in general, and it is as important as it is unassailable. Surrender of control over Okinawa would only make more difficult our already difficult enough role in the Pacific. Since it was the Senate that ratified the peace treaty which gave the United States unrestricted use of Okinawa, the present issue must be decided by the Senate. Under the Constitution, the Senate has a responsibility for foreign affairs. In discharging it in the matter of Okinawa, the Senate could not do better than heed Senator Byrd's statements.

[From the Arizona Republic, June 4, 1969]

POLITICS AND OKINAWA

The 1952 American-Japanese peace treaty gave the United States unrestricted right to the use of Okinawa, the long, narrow, strategically located island off the coast of Asia.

In the past 17 years, the Okinawans have been given increasing autonomy. They elect their own mayors and local councils. But foreign policy decisions are made by the U.S., and American military commanders have final administrative control over Okinawa.

Today the Japanese are making a concerted drive to regain Okinawa. Foreign Minister Kiichi Aichi brought the matter up when he visited President Nixon Monday. The future of Okinawa undoubtedly is a major item in the current negotiations be-

tween Mr. Aichi and Secretary of State William P. Rogers. The Japanese are particularly anxious to get American agreement on this issue before Prime Minister Eisaku Sato visits Washington in November.

It would, of course, be politically advantageous for Prime Minister Sato to return to Tokyo with Okinawa in his diplomatic briefcase. But it wouldn't redound to the advantage of Japan, the United States, or the free world to weaken the military strength of Okinawa.

That strength certainly would be weakened if Okinawa were placed under the administrative arm of the Japanese Foreign Office, or if the United States should give Japan a veto over the use of the men and arms (including atomic weapons) on Okinawa.

Sen. William F. Byrd (D-Va) put the Okinawa problem in perspective in a speech delivered to the Senate last week. He cited American mutual defense agreements with 44 nations, and recalled that the U.S. has been involved in three major foreign wars since 1941.

"We are the dominant country in the North Atlantic Treaty Organization, the purpose of which is to guarantee the freedom of Europe; we are the dominant party of ANZUS—the treaty among Australia, New Zealand and the United States; we are the military head of Cento—Central Treaty Organization—Turkey, Iran and Pakistan; we are the dominant power in the Southeast Asia Treaty Organization, one of the prime reasons, according to former Secretary of State Dean Rusk, that the United States became involved in the war in Vietnam; we have guaranteed the security of Free China, and we have guaranteed the security of Japan."

"As a practical matter," said Senator Byrd, "we have become the policeman of the world." Nowhere is this more evident than in Asia. Continued the senator:

"Whether the United States should continue to guarantee the freedom of Japan, and Free China; whether we should continue the mutual defense arrangements covering the eight countries signing the Southeast Asia Treaty; plus the Philippines; plus Australia and New Zealand; plus Thailand, Laos and Vietnam, is debatable.

"But what is clear-cut common sense, in my judgment, is that if we are to continue to guarantee the security of the Asian nations—and our government has not advocated scrapping these commitments—then I say that it is only logical, sound and responsible that the United States continue to have the unrestricted use of its greatest base in the west Pacific, namely, Okinawa."

What the Japanese seem to want is a continued guarantee of Japanese security; the continued American expenditures in Okinawa ($260 million last year); the continued protection of Okinawa against aggression. But with all these things the Japanese also want to restrict American uses of Okinawa; and of course they want reversion of Okinawa to Japanese hegemony.

Senator Byrd's conclusion is definite, precise and should appeal to every American. "It would be foolhardy, in my judgment, to commit the United States to defend most of the Far East and then to give away this country's unrestricted right to use its military bases on Okinawa."

Okinawa is the touchstone. Any reduction on its strength must be counterbalanced by other strength. Perhaps that strength can come from Japan. The gross national product of Japan is now the third largest in the world, exceeded only by those of the United States and Russia. It should contribute more to its own security.

The Japanese have an important role, perhaps the most important role, to play in stemming the Communist tide in the Far East. But until they are ready to make a substantial contribution in that direction.

[From the Nashville (Tenn.) Banner, June 6, 1969]

FOR SECURITY PURPOSES: AUTHORITY OVER OKINAWA BELONGS IN U.S. HANDS

Sen. Harry F. Byrd, Jr., of Virginia, is one of those who believe—with cause—that the United States must not cede to Japan veto power over military use of the Island of Okinawa. He is right. Exponents of that surrender, ignoring dictates of national and Free World security, have made no reasoned case.

Under provisions of Article 3 of the 1952 Treaty of Peace, the United States has complete administrative authority over the Ryukyu Islands, the largest of which is Okinawa. This nation is not trespassing there, on a mission strictly of peace-keeping. The reminder hardly is necessary that, as Senator Byrd puts it, beginning with President Eisenhower, each administration since 1951 has firmly maintained that the unrestricted use of the U.S. bases on Okinawa is vital if the United States is to continue to have obligations in the Far East.

The mere fact that leftist elements in Japan are clamoring for abrogation of this arrangement, as of the U.S.-Japanese Security Treaty is not sufficient cause either to scuttle the base or give Tokyo veto power over any military decisions relating to it.

The Virginia Senator puts it bluntly: "To put it another way, the Japanese government wants the United States to guarantee the safety of Japan; to continue to guarantee the safety of Okinawa; to continue to spend hundreds of millions of dollars on Okinawa ($260 million last year). But it seeks to put restrictions on what the United States can do."

This nation does not aspire to be the world's policeman—by self-assignment, or by circumstances of assignment by others. But it must not be pushed from essential security outposts legally held, by the pressure of left wing political whims afar, for a surrender that could play directly into the hands of the Free World's Communist enemies. It must not confine itself in a policy straitjacket, nor abdicate administrative authority over a base which shortly, under Communist assault, it might have to recover with arms.

Senator Byrd agrees that eventually the Ryukyu Islands will be returned to Japan. But that time is not yet. It isn't in the immediate offing. Note it:

"What is clear-cut common sense is that if we are to continue to guarantee the security of the Asian nations—and our government has not advocated scrapping those commitments—then I say that it is only logical, sound and responsible that the United States continue to have the unrestricted use of its greatest base in the West Pacific, namely Okinawa."

He is right.

[From the Chicago (Ill.) Tribune, June 4, 1969]

NIXON ON HORNS OF DILEMMA OVER OKINAWA

(By Walter Trohan)

WASHINGTON, June 3.—Japanese Foreign Minister Kiichi Aichi has stated Japan's case to President Nixon for the return of Okinawa. Sen. Harry Flood Byrd Jr. [D., Va.] has stated the case no less forcibly for retention of the island, with its key air base, as long as this country remains involved in the far east.

In pondering the fate of the island, President Nixon is riding the horns of a dilemma. On the one hand, this country has not waged war for territory, at least since 1848, so it would seem that we should hasten to return territory which is not ours and which we have no long-range desire to keep.

On the other hand, the return of Okinawa would make the American role of policemen in the far east, if not in the world, most difficult. The roll may not be a happy one and certainly it is not a profitable one, unless it leads to peace in the area and in the world.

Okinawa is the principal island of the Ryukyu group. More than two-thirds of the 60-island chain's population lives on Okinawa, which houses a key American military base. The islands were won during the war at a cost of 35,000 American lives as part of Douglas MacArthur's island hopping strategy against Japan.

Japan took over the islands in 1879. There has been some local agitation for return of the islands to Japan, but in the Japanese rather than the native community.

BASE VITAL IF UNITED STATES STAYS IN FAR EAST

It is, of course, questionable whether the United States should continue its far flung commitments in the far east, but if it elects to do so, the base at Okinawa is vital. During the quarter of a century since the war ended, the United States has entered into mutual defense agreements with 44 nations, including those in the Southeast Asia Treaty organization.

Two major wars—Korea and Viet Nam—have come since the end of World War II. Probably no other nation in the world would have been able to fight three major wars in so short a period, but it is obvious that the mutual defense agreements haven't headed off two wars or lightened our burden.

We have 225,000 troops in Europe, mostly in West Germany, and one million military in the far east, on land and on sea. This is part of the price the United States is paying as world policeman.

The status of Okinawa has become a burning issue in Japan. Leftists and Socialists, Byrd told the Senate, are trying to force dissolution of the United States-Japanese security treaty in 1970 and as a part of their campaign are demanding the return of Okinawa at once.

OKINAWA STATUS DETERMINED BY 1952 TREATY

The mutual security treaty and the status of the island are not linked. The security treaty was concluded in 1960, each party reserving the right to reopen it after 10 years. The status of Okinawa was determined by the 1952 peace treaty with Japan putting the Ryukyus under United States military administration.

President Kennedy in 1962 said he looked forward to return of the islands to Japan. President Johnson reaffirmed the statement permanently, but the wisdom of return is seriously questioned by many.

"Surrender of control over Okinawa would only make more difficult our role in the Pacific," Byrd told the Senate on the eve of the Japanese foreign minister's visit. "The issue must be decided by the Senate; it was the Senate which ratified the treaty of peace in 1952, which gave the United States unrestricted use of Okinawa.

"In my opinion, so long as the United States maintains its significant role in the far east, the continued unrestricted use of our bases on Okinawa is vital and fundamental."

[From the Christian Science Monitor]

NUCLEAR QUESTION UNDERLIES OKINAWA PARLEY

(By David K. Willis)

TOKYO.—Phase 2 of the crucial security talks between the United States and Japan is opening with one major question that has to be answered.

The question: What right will Washington have to use its massive base on Okinawa without restrictions on nuclear or conventional methods should an emergency threaten after Okinawa reverts to Japanese control?

Phase 1 of the talks, which took place when Foreign Minister Kiichi Aichi paid a quick visit to Washington recently, stripped away much diplomatic underbrush and left the question clearly spotlighted front and center.

Tokyo wants nuclear weapons on Okinawa

to be removed upon reversion. It also says Washington must consult in advance with Japan before reintroducing them or staging renewed combat missions to war zones such as Korea or Vietnam.

But Washington is afraid that these "prior consultations" will take too much time, and will end up with Tokyo saying "No."

RESTRICTIONS OPPOSED

If North Korean should attack the south again, or if Communist China should send troops into Southeast Asia, Washington wants to be sure it can use Okinawa as it sees fit—which is the way it uses the island now. Seoul and Taipei also want Okinawa to stay unrestricted.

Tokyo says "'Prior consultations' could mean 'Yes' rather than 'No.'" Washington replies: "How do we know? Can we be certan?" Tokyo says, "We'll be flexible—after all, we are sensible people. If the emergency is real, we'll say 'Yes.'"

Judging from detailed reports of Mr. Aichi's movements in Washington that were cabled back here by Japanese reporters, the Foreign Minister thinks President Nixon is anxious for a settlement favorable to Japan.

But he also knows now that Secretary of State William P. Rogers, and Defense Secretary Melvin R. Laird, are worried about future Communist threats after reversion.

Japanese sources say Prime Minister Eisaku Sato, who visits Mr. Nixon in Washington in late November, must return to Tokyo with a date and acceptable conditions if he is to stay in office.

HEATED DEBATE SHUNNED

Japanese public opinion seems set against retention of nuclear weapons on the island after reversion. Mr. Sato cannot publicly admit that Washington is free to use the base freely in emergencies. The opposition and others would say that, even if nuclear weapons were removed, Japan still ran the risk of being involved in a war without its own full consent.

Mr. Sato basically wants the U.S.-Japan security treaty applied to Okinawa in full. The restrictions he is asking are already in force for American bases on the Japanese mainland.

If the treaty is changed in any way, he will have to seek ratification from the Diet, or parliament, and heated National debate will ensue. He wants to avoid this.

It has been made clear, privately, to Mr. Nixon that Japan will allow virtual "free use" in a serious emergency.

It is a "stick and carrot" approach: The "stick" is that if Mr. Sato's government falls, Washington will lose a valuable friend. The "carrot" is that emergency "free use" would also apply to bases on mainland Japan as well.

One difficulty for Japan is that, although Mr. Aichi presented a detailed Japanese view—and backed it up with promises of more foreign aid to Asia and improved Self-Defense Forces—Washington itself has still not settled on a final position.

Mr. Nixon and his aides are preoccupied with Vietnam and related issues.

OUTWARDLY OPTIMISTIC

Mr. Aichi sees Mr. Rogers next at the end of July, when American Cabinet members come to Japan for an annual meeting with the Japanese Cabinet on economic issues.

The two men meet again at the opening of the United Nations General Assembly in New York in September.

Japan now must weigh the extent to which Washington will insist on an "unrestricted use" formula, and exactly how it can reply while still placating popular opinion here at home.

Mr. Aichi returns to Tokyo outwardly optimistic. But basically his visit went almost exactly as Tokyo expected it to go, except that Mr. Nixon was thought to be unusually warm, and a potentially sticky meeting with Commerce Secretary Maurice H. Stans also went smoothly.

Publicly, the Japanese dismiss a New York Times report that Mr. Nixon already has decided in principle to return Okinawa without nuclear weapons. Even if the report were true, Tokyo still wants to know the terms Mr. Nixon has in mind.

[From the New York Times]

A VISITOR FROM JAPAN

The visit of Japanese Foreign Minister Kiichi Aichi to Washington this week heralds a new era in Japanese-American relations in which both nations must adjust to new realities to preserve and strengthen a partnership essential to Asian security.

Mr. Aichi is here as advance man for Premier Sato, due next November, to press claims for reversion of Okinawa and other islands of the Ryukyu chain to Japanese rule. The Japanese are also insisting that the American military complex on Okinawa, largest in the Pacific, be subject to the same restrictions as those that already apply to American bases on the Japanese main islands: namely, no nuclear weapons and prior consultations with Tokyo on any combat operations conducted outside Japan.

Loss of absolute American control over Okinawa and unrestricted use of the bases there would certainly impose limitation on the ability of the United States to act unilaterally in the Far East. But the United States can no longer ignore the demands of a resurgent Japan for the return of sovereignty over islands that both the Japanese and the Ryukuans regard as an integal part of Japan. Nor can this country deny Japan a wider role in determining Pacific policies that vitally affect Japanese security.

To rebuff Japanese demands for a more equal partnership would be to court political disorders on Okinawa and invite political repercussions on the main islands that could topple the friendly Sato Government and destroy the United States-Japanese Mutual Security Treaty, an indispensable element in the stability of the Western Pacific. Fortunately, there are indications that the Nixon Administration is preparing to meet the Japanese demands realistically.

For their part, the Japanese must recognize that they cannot continue to enjoy the luxury of American protection without making some sacrifices of their own on behalf of mutual security. If Japan goes too far in forcing reduction of the American military presence, the Japanese will either have to begin making costly investments in a national defense force or stand exposed to the rising nuclear power of China and the belligerency of a heavily-armed North Korea, not to mention pressures from the Soviet Union.

The total elimination of American military ties, including the United States nuclear umbrella, which some Japanese seek would not lead to a disarmed and neutral Japan as they profess to believe. More likely it would provoke the resurgence of Japanese militarism, with Japanese nuclear arms. This is a nightmare most Americans and most Japanese fervently wish to avoid.

OKINAWA SURRENDER?

Twenty-four years ago, 12,500 United States fighting men died to capture Japan's 72-island Ryukyu Chain and its strategic big prize, the 60-mile-long island of Okinawa in the East China Sea. Since then, under continuing American control, Okinawa has been developed as our single most important military base complex in the Far East—A vital, multi-billion-dollar staging area for operations from Korea to Viet Nam.

Japan now is pressing for return of Okinawa and the other Ryukyu Islands. Intense campaigns both by its nationalistic far right and its anti-American left have made such return an explosive political issue. And the Nixon administration, anxious to maintain good relations with Japan's pro-American Government, has indicated it will yield to the pressures and return the territories—probably effective in 1972.

This conciliatory attitude is the latest demonstration of Uncle Sam's amazingly benevolent attitude toward defeated former enemies. Surrender of our control over Okinawa will not mean dismantling of our 91 military installations there. But it would mean we could no longer use the island for storing nuclear weapons, or as an operating base for our B–52 bombers. Furthermore we would have to get Japan's permission for launching any military operations, as we do now at the 148 bases we maintain in Japan itself.

There is absolutely no legal reason why we should do this. The status of Okinawa and the other Ryukyus was fixed by the Treaty of Peace signed by Japan in 1952. Nor does their status have anything to do with the U.S.-Japanese Mutual Security Treaty of 1960, under which the U.S. guarantees the freedom and safety of Japan. Yet a threat not to renew that 10-year treaty in 1970, ironically, is one of the pressures being exerted on Washington for the return of Okinawa.

Under that treaty Japan, in effect, has given a free ride in defense matters. Because we are its protectors, only one per cent of its budget goes for defense. As a result it has been able to develop an annual gross national product of over $120 billion—third in the whole world and topped only by the U.S. and Russia.

What the Okinawa situation boils down to, in other words, is a demand that we give Japan a veto over future U.S. military operations on the island. At the same time, the Japanese would continue to enjoy the benefit of the hundreds of millions of dollars we spend there every year, plus the immense saving afforded by our continuing protection.

It is an absurd proposition from any viewpoint but Japan's. Naturally we want to maintain friendly relations, but a clear choice must be made. Either we keep a strong base under our own unhindered control on Okinawa, or Japan must take over the cost and responsibility of its own defense.

Anything else would be a foolish, dangerous, inexcusable betrayal of the ultimate sacrifice made by 12,500 American men in the bloody battles of 1945.

The PRESIDING OFFICER. Is there further morning business?

Mr. KENNEDY. 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 (Mr. GRAVEL in the chair). Without objection, it is so ordered.

VIETNAM ANALYSIS BY SENATOR AIKEN

Mr. MANSFIELD. Mr. President, I call attention to an editorial entitled "Vietnam: Getting Back to the High Ground," published in the Washington Post of Friday, June 20, 1969. The editorial comments most highly on remarks of the distinguished senior Senator from Vermont (Mr. AIKEN).

Senator AIKEN has waited a long time for the judgment of this editorial. It was in October 1966 that he "advised" the administration that the United States should declare that it has "won" the war in Vietnam, and then proceed with the

"gradual redeployment of U.S. military forces." He added:

This unilateral declaration of military victory would herald the resumption of political warfare as the dominant theme in Vietnam.

The administration ignored Senator AIKEN in 1966. Editorially he was torn apart. Professors and students of political science thought his proposal was absurd.

Mr. President, one of the sad things about our society is that we seem unable to recognize the wise men among us. We suffer fools; we reject the wise.

We see that the Senator from Vermont, 20,000 and more lives late, made sense 3 years ahead of the rest of us.

I ask unanimous consent that the editorial be printed at this point in the RECORD and that it be followed by the entire speech which the Senator from Vermont made to this body on October 19, 1966.

There is food for thought in the speech.

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

[From The Washington (D.C.) Post, June 20, 1969]

VIETNAM: GETTING BACK TO THE HIGH GROUND

"In the final analysis, it is their war. They are the ones who have to win it or lose it. We can help them, we can give them equipment, we can send our men out there as advisers, but they have to win it, the people of Vietnam against the Communists."—John F. Kennedy, September 2, 1963.

This country has had no stronger supporter of its Vietnam effort over the years than Lee Kwan Yew, the tough-minded Prime Minister of Singapore, and yet when Lee was here in town a while ago he was not asking as much of us, in his private conversations with old friends, as we have been asking of ourselves. He had read American public opinion rightly, and, while he was puzzled and dismayed, he was realistic. If the public would not see it through, it was time to begin a gradual withdrawal of our forces—to "Vietnamize" the war. And if the South Vietnamese proved incapable of handling the increased burden and succumbed in time to Communist control, what would the repercussions be elsewhere in Asia? They would not be serious; the American position would not collapse, *provided* the South Vietnamese were seen to have been given a reasonable opportunity to save themselves, *provided* we were honest about it and did not pull out precipitously; *provided* it was plain that we had done as much as any outside power reasonably could be expected to do to foreclose a Communist conquest by force.

This was the nub of it, giving the South Vietnamese an honest, reasonable shot at their own salvation, and, while these are not easy measures to make, this is the test which must somehow be applied to the proposals for disengagement put forth by Clark Clifford, the former Secretary of Defense, in *Foreign Affairs*. They are not, strictly speaking, new proposals; a variation was offered by McGeorge Bundy last October, and both plans draw on the simple prescription put forth by Senator George Aiken several years ago—*declare victory*.

Mr. Clifford did not put it that way, of course, but his plan, like Mr. Bundy's, comes down to the same thing as Senator Aiken's. By proposing that we ease off our military pressure on the enemy, remove 100,000 troops by the end of this year, and withdraw the balance of our ground forces by the end of 1970, Mr. Clifford is making the arbitrary judgment either that the South Vietnamese will be ready 18 months from now to go it alone, perhaps with American air and logistical support; or that if they aren't it won't be our fault; but that in any case we have accomplished as much of our Vietnam mission as can be accomplished in the way we are going about it and that it is time to "set a chronological limit on our Vietnamese involvement."

The logic of almost everything Mr. Clifford has to say about his proposal is inescapable; we are not getting anywhere, nearly fast enough, as things are going now; the South Vietnamese probably won't face up to their obligations to defend themselves until we do less of it for them, the war is diverting "our minds and our means" for pressing domestic problems that won't wait; so the time to begin the process of disengagement is now.

With this much, the Nixon Administration probably would not quarrel—at least privately, in any case, at his press conference last night, the President cited his initial withdrawal of 25,000 troops as evidence that "we have started towards the withdrawal that (Clifford) has advocated" and expressed the hope that "we could beat Mr. Clifford's timetable." He promised another withdrawal in August. But he said the numbers would depend on the rate of training of the South Vietnamese Army, progress in the Paris talks, and other developments. What he isn't saying, in short, is how fast he will go; he has not spread out a timetable or put a flat and final limit on the use of American ground troops. He has not, in short, told the North Vietnamese, who have been waging this war for twenty years, that if they will just be patient for another year and a half, all our ground forces will be gone.

And he has not done so, one suspects, because he does not share Mr. Clifford's quiet confidence that this sort of announcement would create a "painful dilemma" for Hanoi or act as an incentive to "true bargaining" in the Paris talks. This is the sole flaw, to our mind, in the Clifford approach; it might infuse the South Vietnamese with new strength and self-confidence; it might bring them greater self-sufficiency. But because of its fixed and arbitrary timetable, unrelated to any response the enemy might make, it might also shatter the Saigon government, demoralize the South Vietnamese armed forces, and raise very serious questions about whether, in whatever ensued, the South Vietnamese had been given a decent, reasonable chance. So we would forgo the precise, prearranged timetable, while applauding the rest of the Clifford approach. We would favor beginning an irreversible accelerating process of disengagement, but one whose exact pace and termination date are at least somewhat related to honest judgments about the performance of the South Vietnamese and the response of the enemy.

President Kennedy was right—six years ago. In the last analysis, it *was* their war. But we took a very large part of it away from them when we plunged headlong into this quagmire. And this, as well as the effort and the sacrifices that have already been made, imposes upon us a very special obligation to take care about the way we hand it back to them as we try to make our own way back to the high ground.

[From the CONGRESSIONAL RECORD, Oct. 19, 1966]

VIETNAM ANALYSIS—PRESENT AND FUTURE

Mr. AIKEN. Mr. President, now that the President is well on his way to Manila for a meeting with our allies in arms, it seems appropriate to review briefly events leading up to our present position in Vietnam, the status of that present position, and what possible courses are available for the future.

The President has stated repeatedly that the Manila conference is being held in the quest for peace.

I have never doubted the desire of President Johnson for peace in southeast Asia—a peace which would permit the withdrawal of U.S. troops from that area and greater concentration of our aid in the political, economic, and social fields.

I know I speak for the great majority of Americans in wishing him progress toward this objective at Manila.

Passing over the early years of our Vietnam involvement, the record of which is already abundantly clear, I would like to present the situation as it existed in February 1965, when the total of American combat troops in South Vietnam was less than 20,000.

In spite of confident reports by our highest military authorities at that time, there actually existed a clear and present danger of military defeat for the American forces.

In the face of this imminent danger, a detachment of marines was dispatched to Da Nang, and a program of building up military forces in Vietnam was launched.

The administration chose not to identify the danger of military defeat as the reason for escalation, but rather the aggression of the North Vietnamese military forces against South Vietnam.

Aggression is a word with two meanings—one is a quasi-legal meaning which has in the past—in the case of North Korean aggression across the 38th parallel and Hitler's many aggressions in Europe—served as a formal rallying point for collective action. It also has a looser meaning—simply the determination of one country of a hostile act by another.

The United States has been unable to sustain "aggression" as a basis for collective action.

Even the countries most affected by our commitment in Vietnam did not increase their own commitment until the escalation of U.S. military power had proceeded beyond any point where outright military defeat was a credible alternative.

In short, our allies, like Korea, felt it was in their interest to follow our lead if only in respect for U.S. power.

Therefore, whatever the merits of the U.S. charge of aggression, the word cannot be employed in its quasi-technical sense.

However, there is no reason to doubt that wide support exists in the world to the proposition that the military power of the United States should not be questioned or compromised.

This is the honor our gallant allies in Korea, Thailand, the Philippines, Australia, and New Zealand pay us by placing their soldiers alongside ours in Vietnam and in Thailand.

Insofar as our commitment to Vietnam represented an effort to sustain the credibility and integrity of the U.S. Armed Forces, the act of escalation cannot brook any serious dissent.

In February of 1965 and for some months thereafter, such a situation persisted.

However, at the present time it is not possible to sustain a clear and present danger of military defeat facing U.S. Armed Forces.

The enemy has apparently dismissed any idea of engaging in major formal combat with superior U.S. forces, and has resorted to a war of harassment and surprise guerrilla tactics.

Faced with the harassment of the Vietcong and the North Vietnamese military forces, casualties to American forces in Vietnam are inevitable.

The more American troops in active combat, the more casualties from such harassment there will be.

But these casualties in no way sustain the prospect of a military defeat.

Today, the American commitment in Vietnam no longer involves the fundamental objective of preserving the credibility and integrity of U.S. Armed Forces—provided that the war is not extended in time or in geography to the point where a wholly new threat to U.S. military power exists.

The new threat might take either the form of Chinese intervention, or, more pertinent, the form of a prolonged erosion of the credi-

bility of U.S. power through harassment in a political context—namely, through the disintegration of the South Vietnamese society.

The U.S. Government has asserted frequently and emphatically that there is no military "solution" or objective in this war.

We do not seek to destroy North Vietnam nor its government.

This assertion is shared by virtually every type of observer—allied, official, and hostile.

The greater the U.S. military commitment in South Vietnam, however, the less possibility that any South Vietnamese Government will be capable of asserting its own authority on its home ground or abroad.

The size of the U.S. commitment already clearly is suffocating any serious possibility of self-determination in South Vietnam, for the simple reason that the whole defense of that country is now totally dependent on the U.S. armed presence.

This was also true in Korea in 1954, but then the United States was operating under the umbrella of collective U.N. action, and along a well-defined battlefront which permitted organization of the rear areas.

None of this is true in South Vietnam.

Considering the fact that as every day goes by, the integrity and invincibility of the U.S. Armed Forces is further placed in question because there is no military objective, the United States faces only two choices: Either we can attempt to escape our predicament by escalating the war into a new dimension, where a new so-called aggressor is brought into play or we can deescalate the war on the ground that the clear and present danger of a military defeat no longer exists and therefore deescalation is necessary in order to avoid any danger of placing U.S. Armed Forces in a position of compromise.

Faced with these alternatives, the United States, could well declare unilaterally that this stage of the Vietnam war is over—that we have "won" in the sense that our Armed Forces are in control of most of the field and no potential enemy is in a position to establish its authority over South Vietnam.

Such a declaration should be accompanied, not by announcement of a phased withdrawal, but by the gradual redeployment of U.S. military forces around strategic centers and the substitution of intensive reconnaissance for bombing.

This unilateral declaration of military victory would herald the resumption of political warfare as the dominant theme in Vietnam.

Until such a declaration is made, there is no real prospect for political negotiations.

The credibility of such a unilateral declaration of military victory can only be successfully challenged by the Vietcong and the North Vietnamese themselves—assuming that the Chinese remain aloof.

There is nobody in the United States or in Europe or in Russia that is at all likely to challenge a statement by the President of the United States that our military forces have discharged their duty in their usual competent manner and occupy the field as victors.

Any charge against such an assertion directly challenges the ability of U.S. military power and makes the prospect of a wider war clear and present.

Right now in the eyes of most of the world, only the United States suggests that possibility.

Once the burden of suggesting a wider war is shifted from us to others—others who question the integrity of U.S. military power—the United States is again in the position of leading from collective strength politically.

This suggested strategy is not designed to solve the political problem of Vietnam.

It is simply designed to remove the credibility of U.S. military power—or more loosely the question of "face"—as the factor which precludes a political solution.

Again, it is important to stress that no politician in the United States, in Europe, or even in Russia is likely to challenge a unilateral declaration of military victory on our part.

Even if such a challenge were made, the United States would be in a stronger position than it is today, for it would have established "aggression" again as a means of collective, rather than essentially unilateral action.

I have not discussed this possible course of action with President Johnson, but I firmly believe that it presents a feasible course of action which ought not to be lightly dismissed.

Its adoption would not mean the quick withdrawal of our forces in southeast Asia.

In all probability, our military strength would have to be deployed in that area for many years to come.

We are a Pacific power, and no nation in southern Asia—possibly not even North Vietnam itself—would feel at ease were we to announce a withdrawal from that responsibility.

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

Mr. AIKEN. I yield.

Mr. MANSFIELD. Mr. President, as always, the distinguished senior Senator from Vermonth [Mr. AIKEN] has given us a great deal to consider and some additional food for thought. His speech indicates that he has devoted a good deal of his time and energy to the suggestions which he has advanced.

I commend the Senator for his emphasis on the political aspects of the war because there is no doubt that, militarily speaking, the hump was crossed over a long time ago and we are now in a position where we cannot and will not be dislodged. Therefore, we reach the political phases of the situation, which are by far the most important because, in my opinion, the struggle in Vietnam will not be won on a military basis.

As the Senator from Vermont (Mr. AIKEN) has pointed out, it is not a case of conventional warfare. It is of harassing tactics and a case of guerrilla activities that can go on for a long time, even though we continue to hold the upper hand.

I was also pleased to note the emphasis placed by the distinguished Senator from Vermont (Mr. AIKEN) on his assertion that the United States is a Pacific power. There is a great deal of difference between being a Pacific power and an Asian power. Therefore, the emphasis has been well brought out at this time.

It happens that last evening the distinguished U.S. Ambassador to the United Nations, Mr. Arthur Goldberg, in response to challenges in the closing minutes of the General Assembly's marathon policy debate, which centered on the war in Vietnam, had some comments to make. In response to Communist and nonalined member states who have been calling for a halt in the bombing as an essential preliminary of any peace negotiations, and also to the Communits demands for withdrawal of U.S. troops, Ambassador Goldberg said:

"We have considered this advice and having considered it, we would like to know from Hanoi privately or publicly what would happen if we followed it."

Replying to the challenges relative to U.S. troop withdrawal, Ambassador Goldberg said:

"We have said repeatedly that we do not seek a permanent military presence in Vietnam and have offered to agree to a time schedule for supervised, phased withdrawal of all external forces, those of North Vietnam as well as those of the United States."

It would appear to me that the proposals which have been suggested by the distinguished senior Senator from Vermont (Mr. AIKEN) are worthy of consideration by the administration and by all of those engaged in the present conflict.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

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

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from this morning's ticker which deals with the statements of Ambassador Goldberg in the United Nations last night.

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

"UNITED NATIONS.—The United States called on North Vietnam last night to spell out what it would do if U.S. air attacks on the communist state are called off.

"Ambassador Goldberg posed the challenge in the closing minutes of the General Assembly's marathon policy debate which has centered on the war in Vietnam.

"Replying to Communist and nonaligned member states who had been calling for a halt in the bombing as an essential preliminary to any peace negotiations, Goldberg said:

" 'We have considered this advice and having considered it, we would like to know from Hanoi privately or publicly what would happen if we followed it.'

"Replying to Communist demands for a withdrawal of U.S. troops in Vietnam, he said:

" 'We have said repeatedly that we do not seek a permanent military presence in Vietname and have offered to agree to a time schedule for supervised, phased withdrawal of all external forces—those of North Vietnam as well as those of the United States.' "

Mr. AIKEN. I thank the Senator from Montana [Mr. MANSFIELD], whose opinion, as everybody knows, I wholeheartedly respect.

I did not know that Ambassador Goldberg was going to make a speech yesterday. In fact, I have had no consultation with anyone on this matter. But I do think that the hand of the United Nations would be immensely strengthened if we could announce that we have won the military victory, and it is the political situation that now exists. Then, if the enemy persists in military operations, they, in the eyes of the world, would be the aggressors, and subject to collective actions which the United Nations would be interested in and concerned with, as was the case in connection with Korea.

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

Mr. AIKEN. I would be happy to yield, but I have no time remaining.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas may be recognized in his own right.

Mr. AIKEN. Mr. President, I ask unanimous consent that I may proceed for another 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, the Senator may proceed for an additional 5 minutes.

Mr. FULBRIGHT. First, I wish to join the majority leader and say that I think the speech is most interesting, and I think it is very timely as this conference gets underway in Manila in the next few days that some alternatives to the escalation of the war be given. I wish to congratulate the Senator from Vermont [Mr. AIKEN] on raising this matter.

I wish to ask the Senator one or two questions. I notice that on page 6 the Senator says there are two approaches: one is to escalate the war into a new dimension, by which I assume he would mean probably an invasion of North Vietnam or the dropping of atomic bombs. Is that correct?

Mr. AIKEN. There is a great temptation on the part of some people to escalate the war rather than to admit that the United States is at a military disadvantage which, of course, it is not. If we once announce that the military conflict has been won, then we can go onto a political basis and if anyone else seeks to promote the question of credibility or the

ability of U.S. Armed Forces, or attempts to escalate or continue the war, they themselves would be taking the position of being aggressors in the eyes of much of the world, which views the United States at the present time as being the aggressor. I think we have got to get rid of that label.

Mr. FULBRIGHT. I join the Senator in wishing to find a way to get rid of that label, but I want to clarify my thoughts. Is it the Senator's view that the deescalation, which he mentions in the first paragraph on page 6, should take place concurrently with the announcement of a military victory?

Mr. AIKEN. The deescalation would be gradual.

Mr. FULBRIGHT. Gradual.

Mr. AIKEN. Of course.

We could not withdraw our troops from South Vietnam precipitately. They could be redeployed. I do not know what would happen. Perhaps the enemy would refuse to concede or to stop the fighting. It seems to me that they should be ready to stop it by now because they have been unmercifully punished by U.S. forces.

As for withdrawing our troops from South Vietnam, I think they would have to cover it for a long time, because we might as well admit that the South Vietnamese Government has now been completely overshadowed by our forces there. They are having trouble again, and we would have to stay there for some time; but as of now we have gone so far as to guarantee that no outside forces will take over South Vietnam.

Mr. FULBRIGHT. I think that is correct. I ask the Senator, would this entail a suspension of the bombing of North Vietnam?

Mr. AIKEN. I think it should. That is one way we would get our answer as to whether the enemy is disposed at all to meet us on political grounds.

Mr. FULBRIGHT. If, as I think the Senator has in the past suggested, as a token of our good faith, with regard to negotiations we suspended the bombing of North Vietnam, does the Senator think that would be a useful thing for us to do? Would that be a good way to test out their attitude?

Lastly, because this is a new idea—I am not quite clear on it, but I am certainly sympathetic with anything that the Senator from Vermont ever brings forward designed to minimize the tragic destruction and loss of life now taking place in Vietnam—does the Senator visualize that at the Manila conference an announcement should be made that we have won a military victory? Is that what he is suggesting?

Mr. AIKEN. That is a hope—possibly a faint hope, but it seems to me that there might be action taken in Manila and an understanding reached there which would lead to such an announcement of a military victory on our part, because no one in the world—Russia, or any other country—can dispute the fact that we are winning a military victory so far as Vietnam is concerned.

Mr. FULBRIGHT. I would go further and say that they do not dispute that we could make of Vietnam a desert, as they say, by completely destroying everything there—man, woman, tree, anything else if we wished.

Mr. AIKEN. But we have repeatedly announced to the world that we have no intention of destroying North Vietnam or the Hanoi government, that they have a right to their own choice of government. But, we could destroy them. They must understand that. It seems to me that at this point they would welcome some indication that we might meet them on political grounds, in which case they might be willing to negotiate.

Mr. FULBRIGHT. To negotiate.

Mr. AIKEN. I do not believe, so long as we base this conflict on military grounds, that the Hanoi government will ever sit down with the present leadership of the United States. I think they would accept extermination first.

Mr. FULBRIGHT I think I agree with the Senator on that. I am very glad he has made his speech. I shall study it with a great deal of interest. I also hope that the administration will.

I congratulate the Senator on his fine address.

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

The ACTING PRESIDENT pro tempore. The time of the Senator from Vermont has expired.

Mr. AIKEN. Mr. President, I ask unanimous consent to proceed for 2 additional minutes in order to yield to the Senator from Ohio [Mr. LAUSCHE].

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

Mr. LAUSCHE. Do I understand correctly from the Senator's remarks that he would begin by declaring a military victory?

Mr. AIKEN. Absolutely. My statement speaks for itself.

Mr. LAUSCHE. The Hanoi government might challenge that.

Mr. AIKEN. Yes; North Vietnam might challenge that, but if they do, I think they will lose much of the sympathy of the rest of the world.

Mr. LAUSCHE. If we declare a military victory, what do we do then, pull out, establish enclaves, or deescalate? What is the next step?

Mr. AIKEN. I think we would have to remain in order to maintain our bases there and conduct full-scale reconnaissance to keep track of what they were doing. But we would before long find out whether they wanted to continue to fight and, if they did, then they themselves would be the aggressors, rather than us, in the eyes of the world.

Mr. LAUSCHE. In substance, that is the Gavin plan, that we establish islands and hold onto them and stay there.

Mr. AIKEN. That has been the practice we have been following over there now. We certainly have strongholds now from which we can deploy our troops.

Mr. LAUSCHE. But the Senator does not recommend that we pull out?

Mr. AIKEN. No. We will have to remain until a great degree of stability has been established. Our leaving South Vietnam will have to be gradual.

Mr. LAUSCHE. Or that we establish bases there and watch whether North Vietnam will respond favorably to our gestures to bring them to the negotiating table.

Mr. AIKEN. If we said we were going to pull out at once, then the Government of South Vietnam would go. It would not stand up very long.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

THE WETLANDS OF MARYLAND

Mr. TYDINGS. Mr. President, one of the greatest natural resources the State of Maryland possesses is the estuary known as Chesapeake Bay. It is one of the world's finest natural spawning spots for fin fish and shellfish.

Some years ago a group of Japanese biologists visiting Chesapeake Bay stated that if Japanese techniques for farming—and when I say "farming" I mean the development of shellfish and fin fish—were utilized in Chesapeake Bay, the resulting income from the annual harvest would be sufficient to support the entire Japanese budget with no other source of income.

Chesapeake Bay, is indeed, a priceless jewel in the crown of Maryland's natural resources. However, the price for keeping any crown untarnished and preserved is vigilance. We in Maryland have not exerted the vigilance that we should in the protection of our great natural resources, particularly Chesapeake Bay.

Last week an article entitled "The Wetlands: The High Hidden Price of Surrender," written by Hunter James, was published in the Baltimore Evening Sun. Mr. James stated just what could happen if Maryland's 320,000 acres of wetlands were permitted to be replaced by "a dreary procession of marinas, boat slips, jerry-built housing developments, gas stations, boardwalks, honky tonks, dancehalls, refuse dumps, and long rows of beach cottages all but obliterated by the hot sun."

The point is that any one of these developments may not be objectionable; indeed, some of them may be desirable. The point is that we must exert more diligence in planning and protecting our wetlands in this great estuary than we have in the past. Mr. James' article makes that clear.

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 WETLANDS: THE HIGH, HIDDEN PRICE OF SURRENDER

(By Hunter James)

Someday, if private developers have their way, the last of Maryland's 320,000 acres of wetlands will be replaced by a dreary procession of marinas, boat slips, jerry-built housing developments, gas stations, boardwalks, honky tonks, dance halls, refuse dumps and long rows of beach cottages all but obliterated by the hot sun; man-made waste flung down upon nature's waste, made profitable for a few, hospitable to some and disquieting to the rest of us.

In hard truth, if nothing were endangered by the builders and dredgers but nature in its primeval state, there would be reason only for lament, not one for official compaint. But scientists know that in the eternal order a wetland is as important to some forms of bird life and fish life and even some forms of animal life as the sea and land and air itself.

The easiest way to think of a wetland is as the margin of the sea, the part covered by the incoming tide and left exposed when the tide goes out. It is the ebb and flow of the tides that helps explain why the wetlands are so important. Down with the outgoing tide go assorted forms of decayed plant life that serve as food for croakers, menhaden, skillet fish, silver perch and other species.

The menhaden is itself a basic food for the white marlin, striped bass, sea trout and other large food and game fish. Once the menhaden goes so will most of the others. The menhaden will vanish just as soon as young menhaden can no longer swim up the Chesapeake to feed in the fresh water estuaries—that is, as soon as the builders and dredgers have done their work. Marsh plants, high in nitrogen and phosphorous compounds, also furnish food for deep sea plants and for shellfish which mature in the shallow waters along the edge of the bay and its tributaries.

The destruction of the coastal marshes would ultimately deprive Maryland of most if not all of its blue crabs, clams and oysters—all of which depend either directly or indirectly on the wetlands for food. Hunters would no longer shoot the canvasback

duck or the Canadian wild goose in these parts, and the diamondback terrapin would become a rarity indeed. The muskrat, native of the swamps and valuable for his fur, would vanish and with him would go the whistling swan, great blue heron, snowy egret, osprey and hundreds of species of songbirds.

Dr. Eugene Cronin, director of the state's Natural Resources Institute, describes the bay and its surrounding regions as "a very rich ecosystem, made up of plants and animals which are beautifully fitted to the special characteristics of this rather violent body of water.

"The organisms are in balance with their environment and with each other. The system is tough and many species have been able to withstand considerable environmental change and modification. At the same time, it is essentially delicate or fragile, and destruction of any one link in the rather short food chain might have far-reaching and long-lasting destructive effects on the entire system."

The state has lost an estimated 7 per cent of its wetlands since 1952 and could lose up to 93,000 additional acres in the next decade. Luckily, Maryland is not yet so poor in wetlands as California now is. That state has lost almost 70 per cent of its wetlands and San Francisco bay, the hardest hit area, is no longer of much consequence as a commercial fishery.

Maryland has been helped by the relative isolation of the Eastern Shore. But the impending construction of a second Bay bridge may bring renewed clamor for more commercial development which in turn will bring a demand for a third and fourth Bay bridge which will create other types of pressure for other types of development.

The state recently took a monetary beating in the transfer of valuable wetland properties on Assawoman Bay and Isle of Wight Bay to James B. Caine, a private developer, and to Maryland Marine Properties, Inc. It also gave up some of the most valuable food-producing regions. Experts believe the proposed development alone could destroy up to half the blue crabs and clams that inhabit the surrounding waters.

Fortunately the Board of Public Works has called off further transfers of state-owned wetlands until the General Assembly has had a chance to enact sensible legislation for their control. In the last session of the General Assembly, steel and railroad interests joined with the Maryland Port Authority, and the state Department of Economic Development to kill two relatively mild regulatory measures. The only difference next time, if any, will be the sense of urgency brought on by the realization that so far the problem hasn't been treated with any urgency at all.

"We are not yet in the late crisis stage," says Dr. Cronin. "We are still in the early visible and grave threat stage, and there is still time to write fair laws and bring the problem under reasonable control."

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECENT AIR TRAFFIC CONTROL SLOWDOWN

Mr. STENNIS. Mr. President, last year, as chairman of the Appropriations Subcommittee on Transportation, I made a special visit to many of the air traffic control centers operated by the Federal Aviation Agency. I went into the facilities, inspected the equipment and observed controllers in Los Angeles, San Francisco, Seattle, Oklahoma City, New York, and many other cities. I saw first hand the situation that faced the controllers and was particularly impressed with the very heavy responsibility placed upon them in moving air traffic throughout the Nation and to and from foreign countries.

Mr. President, I was not only impressed with the enormous amount of work they do but also with their fine dedication, high sense of responsibility, and splendid attitude toward their obligations, and their work as a whole. I witnessed that in every place I visited.

I was quite serious about this matter. I realized that I had to know more about the subject matter in order properly to handle the bill on the floor of the Senate.

I then took the lead—with some very fine help, of course—in increasing the Federal Aviation Agency appropriations to include the addition of 1,000 controllers over and above that recommended in the budget. We already had a recommendation for 1,000 new prospective controllers but the committee had that amendment for an additional 1,000 because of the congested conditions. In addition, again with splendid assistance, I took the lead in removing the controllers from the manpower limitation of 1968 so that the number of controllers could be increased as rapidly as possible.

That amendment was considered on the floor of the Senate. There was some very fine debate on it. The Senate voted overwhelmingly to except the agency from the limitations of the Revenue Act of 1968. That was the only exception, as I recall, that I voted for.

As chairman of the Appropriations Subcommittee on Transportation, I feel that I have a direct responsibility in the air controller problem and after the extensive study I feel I know something of its extent, and of what is being done to remedy it. I, therefore, feel that I have an obligation to speak out on the recent slowdown of air controllers that disrupted air traffic throughout the Nation and had a very serious effect even in foreign countries served by airlines to and from the United States.

On last June 18, 19, and 20, the Nation was faced with a severe disruption of air traffic, because of a slowdown of air traffic controllers in key places throughout the Nation.

On those days, many controllers did not report to work, giving as their reason the taking of sick leave. I believe this is a very serious matter, which can have an adverse effect upon the Nation as can few other operations for which the Government is responsible.

I am in sympathy with the air controllers generally. Last year, the Appropriations Subcommittee on Transportation added money for the hiring and training of more controllers. We continue to work toward acquiring and training a sufficient controller force, safely and adequately to handle the air transportation of the Nation.

I emphasize, however, in a most serious way, that the action taken by the controllers during this 3-day slowdown is neither in the best interest of the Nation, nor in the best interest of the controllers. Such action, if repeated in this, or any similar form, is virtually certain to bring down upon the controllers a wave of criticism that will make it difficult, if not impossible, to obtain public and congressional support for their cause.

It is readily conceded by those in positions of responsibility that the air controller system needs attention. However, no good purpose is served by inconveniencing hundreds of thousands of travelers and causing the unnecessary expenditure of millions of dollars in an effort to "dramatize" a situation already well known by those, who have responsibility in the matter and who are doing what they can to correct the inequities and inadequacies.

Moreover, the damage is greatly increased inasmuch as the "dramatization" and the slowdown were made under what appears to be false pretenses—that is, the taking of sick leave to avoid the necessity of reporting to work and at the same time escaping penalty for not being at their assigned post of duty.

I have received a summary of the status of the air traffic control system of the United States on June 18, 19, and 20—the days of the so-called slowdown.

I am far from convinced, in fact I have grave doubt, that in Denver, Colo., of the 50 controllers scheduled to report for duty, 25 were sick. Or in Honolulu, seven of the 13 scheduled to report for duty were sick. Or in Houston, seven of 15 scheduled to report for duty were sick. Or in New York, 79 of 112 scheduled for duty were sick.

I think that this practice, in addition to being a disservice to the traveling public, puts in jeopardy the sick leave system of the entire Government.

I urge the air controllers to carry out their duties in good faith, to express their grievances in an orderly and dignified manner through proper channels while at the same time performing their duties in accordance with the high standards and the splendid reputation they have earned over the years.

I sincerely hope they will not be misguided or misled into believing that such tactics as a slowdown of this type will have the effect of bringing pressure on Congress.

Mr. President, I have a continuing interest in this problem. I feel a sense of responsibility to the Senate, to Congress, and to the people of this Nation as chairman of the Appropriations Subcommittee on Transportation, that it is my obligation—direct, official, and personal—to continue this interest and to continue working on this matter—an obligation which also extends to the controllers, to the public, and to the Congress.

I am interested in their welfare. I am interested in their equipment. We put in extra money last year for that. My acute interest was also evident in this subject before I became chairman of the subcommittee when, a few years ago, two of my closest friends lost their lives not because of something the controllers failed to do, but because, as I believed, of a lack of equipment at that particu-

lar airport which caused a very serious crash of an airplane which not only caused the loss of life to my two friends, but everyone else on the airplane.

All those reasons combined have caused me to come here today not to look for any trouble—I already have enough to do—but to come here to raise the flag of warning to these fine men and also to raise the flag of warning to the public as a whole, and to Congress, to show the possible grave and tremendous trouble that can arise unless this matter is brought to a different plane and settled on a different basis.

I believe in these fine men. I know a few of them personally, but when one observes them working under the stress and strain, and care and responsibility, he has a better idea of the character of the controllers than if he met them at a social function, a ball game, or any other place.

My impression of them, when left alone to carry out their responsibilities, is that they are a fine, high-type group of men.

Mr. President, I ask unanimous consent to have printed in the RECORD a situation report on the status of the air traffic control system on June 18, 19, and 20, 1969.

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

SITUATION REPORT ON THE STATUS OF THE AIR TRAFFIC CONTROL SYSTEM ON JUNE 18, 19, AND 20, 1969

In the period 18–19 June 1969 absenteeism in the ATC system became a major problem. Detailed reports providing a breakdown on the situation on a facility by facility basis are currently being prepared. The purpose of this summary is to provide an overview of the situation from a system standpoint. On 18 June 1969, the absenteeism was centered in the Kansas City Center ARTCC and Denver ARTCC areas. These are key facilities in terms of transcontinental traffic movement. Approximately 50% of the controllers scheduled for duty called in sick in these two facilities. In addition, the Kansas City Municipal Airport terminal ATC facility experienced 25% absenteeism. This resulted in a void at the crucial mid-continental area and resulted in reroutings to transcontinental traffic north and south of this area. Specifically, the Kansas City Center, faced with the shortage of qualified control personnel, was obliged to issue restrictions on transcontinental traffic which resulted in large scale disruption to the normal flow between the East and West Coasts of the United States.

On the following day, 19 June 1969, the absenteeism became more widespread. Denver Center again was hard hit while Kansas City returned to a normal complement. A new element, however, was introduced. The New York ARTCC experienced absenteeism which appears to be on a selective basis. In all of our Centers we have varying degrees of specialization in terms of controllers function or span of control. Based on the data available, it appears that the absenteeism experienced on 19 June 1969 was concentrated in specific and strategic areas. In the New York Center on both the 8 to 4 and 4 to Midnight tours of duty, the absenteeism was concentrated in the functions which provide services to the main flow of traffic proceeding to points west of New York; this includes New York/Chicago and New York/West Coast traffic. This pattern combined with the absenteeism experienced in the Oakland Center, which was mainly concentrated in the functional areas which provide services to Eastbound departures and traffic originating in New York, Chicago and Atlanta terminals, indicated, at least on a prima facie basis, that there was a specific, well-coordinated plan designed to cripple, or at least slow down, the main East Coast to West Coast traffic. Based on preliminary analysis of the data available, it appears that the absenteeism was concentrated in those areas where its effect would result in the most disastrous disruption.

Aside from this overall pattern in the en route environment, the system experienced spotty absenteeism in terminal air traffic control facilities, which appear to have some relationship to the en route system problem. On 18 June 1969 the Kansas City Municipal Airport, as noted above, had about 25% absenteeism on both the day and evening watches. This situation, combined with the absenteeism in the Kansas City Center, caused major operational difficulties. On 19 June 1969 while the New York Center was operating at about 50% of normal staffing, the New York terminal facility experienced about 25% absenteeism.

Aside from these major areas outlined above, there were pockets of significant absenteeism throughout the system. We had to shut down two towers; at Stockton and San Jose, California, due to insufficient personnel on duty to provide air traffic control services. The Houston area experienced 50% absenteeism in the terminal facility. Austin, Texas, and Baton Rouge, La., had similar problems. Honolulu Tower and Center also experienced about 30–35% absenteeism on 19 June 1969.

As the pattern of absenteeism became evident, the FAA took action to implement emergency plans which were originally designed to cope with catastrophic system failures. These actions combined with the initiative and dedication of the personnel who reported for duty resulted in maintaining a safe environment although system delays were prevalent.

The impact on the air traffic control system appears to have been concentrated mainly in the New York Area on 19 June 1969. The void in the Kansas City/Denver area on 18 June 1969 resulted in many reroutings but based on the data available to date had negligible overall effect on the system. On 19 June 1969, however, the effects were more far reaching in terms of ground delays and cancellations of flights throughout the system.

In summary, it appears that the absenteeism shows a pattern designed to have maximum effect on the air traffic control system by creating a void in functional areas which would hurt the most.

As of today, 20 June 1969, things appear to have returned to normal. It is significant to note, however, that most of the personnel who reported sick to the New York Center on the midnight to 8 shift (20 June 1969) subsequently called in and said they felt better and would return to work. This was after the announcement on the communications media which stated that the "dispute" had been settled between the employee organizations and the FAA.

JUNE 18, 1969

Denver ARTCC (sick leave)

8 a.m. to 4 p.m., 25 controllers out of 50 scheduled.

4 p.m. to 12 midnight, 30 controllers out of 46 scheduled.

Midnight to 8 a.m., 3 controllers out of 15 scheduled.

Kansas City ARTCC (sick leave)

8 a.m. to 4 p.m., 24 controllers out of 61 scheduled.

4 p.m. to 12 midnight, 33 controllers out of 61 scheduled.

Kansas City tower (sick leave)

8 a.m. to 4 p.m., 4 controllers out of 13 scheduled.

4 p.m. to 12 midnight, 3 controllers out of 13 scheduled.

JUNE 19, 1969

Denver ARTCC (sick leave)

8 a.m. to 4 p.m., 24 controllers out of 50 scheduled.

4 p.m. to 12 midnight, 8 controllers out of 46 scheduled.

Midnight to 8 a.m., 6 controllers out of 13 scheduled.

New York ARTCC (sick leave)

8 a.m. to 4 p.m., 61 controllers out of 123 scheduled.

10 Assistants out of 18 scheduled.

New York ARTCC (sick leave)

4 p.m. to 12 midnight, increased to 79 controllers out 112 scheduled.

9 Assistants out of 28 scheduled.

Midnight to 8 a.m., 42 controllers out of 53 scheduled.

Approximately 1 a.m. controllers started to return so that New York assumed control of their area at approximately 3 a.m.

New York terminal common IFR room (sick leave)

8 a.m. to 4 p.m., normal.

4 p.m. to 12 midnight, 13 controllers out of 38 scheduled.

Oakland ARTCC (sick leave)

8 a.m. to 4 p.m., 12 controllers out of 54 scheduled (2 left after reporting).

4 p.m. to 12 midnight, 13 controllers in Area D.

Area D handles eastbound traffic from bay area. The Common IFR Room expanded eastward to control area traffic and traffic was rerouted to bypass area.

Cigar in drain of water fountain—Water flooding from cafeteria which is above TELCO room. No damage but TELCO standing by in case.

Stockton tower (sick leave)

Shutdown 11 p.m. to 7 a.m.—3 of 4 control personnel absent.

Adjustments made so that day shift staffed for normal operations.

San Jose tower (sick leave)

Approximately 6:30 p.m. Pacific Coast all air carrier traffic were requested to divert to San Francisco.

4 controllers out of 5 scheduled were absent.

Approximately 7 p.m. Notice to Airmen was issued advising San Jose Tower would be inoperative from 12 p.m. to 6 a.m.

Houston tower (sick leave)

Common IFR Room, 7 controllers out of 15 scheduled.

Hobby Tower, 3 controllers out of 5 scheduled.

Austin tower (sick leave)

3 controllers out of 5 scheduled.

Baton Rouge (sick leave)

3 controllers out of 4 scheduled. 3 controllers sent from Beaumont, Texas, to handle 8 a.m. to 4 p.m. (2).

Honolulu tower (sick leave)

4 p.m. to 12 midnight, 7 controllers out of 13 scheduled.

12 midnight to 8 a.m., 3 controllers out of 5 scheduled.

Honolulu ARTCC (sick leave)

4 p.m. to 12 midnight, 7 controllers out of 21 scheduled.

Emergency Plan was implemented by New York at approximately 10:30 p.m. to 2:56 a.m.

Washington, Cleveland, Boston Centers assumed control with direct handoff to New York Terminal at 18,000 feet and above.

The towers in the New York Center area assumed control of traffic at 17,000 feet and below. By 1 a.m. 11 additional controllers reported for work and by 5 a.m. New York had assumed control of their area.

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

REPORT ON MEDICARE

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the first annual report on the medicare program by the Health Insurance Benefits Advisory Council, covering the period July 1, 1966, to December 31, 1967 (with an accompanying report); to the Committee on Finance.

REPORTS OF FOREIGN-TRADE 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, 1968, together with reports covering the activities during the same period of Foreign-Trade Zones Nos. 1, 2, 3, 5, 7, 8, and 9 (with accompanying reports); to the Committee on Finance.

BILLS INTRODUCED

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

By Mr. METCALF (for himself and Mr. MANSFIELD):

S. 2464. A bill to repeal section 372–1 of title 25, United States Code, relating to the appointment of hearing examiners for Indian probate work, to provide tenure and status for hearing examiners performing such work, and for other purposes; and

S. 2465. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a more equitable allocation of grants among the States; to the Committee on the Judiciary.

By Mr. TYDINGS:

S. 2466. A bill for the relief of Dr. Aleyde A. Melocoton; to the Committee on the Judiciary.

By Mr. BROOKE:

S. 2467. A bill for the relief of Konstantine Anagnostopoulos; to the Committee on the Judiciary.

SENATE RESOLUTION 214—RESOLUTION RELATING TO DEATH OF REPRESENTATIVE WILLIAM H. BATES OF MASSACHUSETTS

Mr. BROOKE (for himself and Mr. KENNEDY) submitted a resolution (S. Res. 214) relative to the death of Representative William H. Bates of Massachusetts, which was considered and agreed to.

(See the above resolution printed in full when submitted by Mr. BROOKE, which appears under a separate heading.)

NOTICE OF HEARINGS ON SMALL BUSINESS LEGISLATION

Mr. McINTYRE. Mr. President, I should like to announce that the Subcommittee on Small Business of the Committee on Banking and Currency will begin hearings on 1969 small business legislation on Tuesday, July 8, 1969, at 10 a.m., in room 5302, New Senate Office Building.

The bill to be considered by the subcommittee, plus any other bills which may be introduced and referred to the Small Business Subcommittee prior to July 8, are—

S. 915, to authorize the Small Business Administration to provide financial assistance to certain small business concerns suffering substantial economic injury as a result of the current work stoppages at east and gulf coast ports;

S. 1212, to amend the Small Business Investment Act of 1958;

S. 1213, to create a Small Business Capital Bank, and for other purposes;

S. 1750, to amend the Small Business Act to authorize assistance to small business concerns in financing structural, operational, or other changes to meet standards required by Federal law or State law enacted in conforming therewith;

S. 1763, to increase certain loan limitations applicable to the regular business and the development loan program of the Small Business Administration;

S. 1782, to amend section 7(b) of the Small Business Act to provide for new interest rates on the Administration's share of disaster loans;

S. 2385, to amend the Small Business Act to apply an acceptable credit risk standard for loans to small business concerns in certain high-risk areas;

S. 2408, to amend the Small Business Act; and

Senate Resolution 176, providing for the Small Business Administration to conduct a pilot study of the financial needs of small business concerns which must modify plant, equipment, or procedures in order to comply with recently enacted Federal health and safety standards.

All persons wishing to testify should contact Mr. Reginald W. Barnes, assistant counsel, Senate Committee on Banking and Currency, 5300 New Senate Office Building, Washington, D.C. 20510; telephone 225–7391.

REMARKS BY SENATOR CURTIS AT SENATE PRAYER BREAKFAST

Mr. STENNIS. Mr. President, recently, the Senator from Nebraska, Mr. CARL T. CURTIS, made some remarks before the Senate prayer breakfast group in the Vandenberg room of the Capitol. His profound remarks were most impressive indeed to those who heard them; they were filled with wisdom and common sense and were timely as well as constructive comments on some of the problems of our times. I think Senator CURTIS' thoughts and comments should be available to the public at large and therefore ask unanimous consent that they be printed in the body of the RECORD.

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

REMARKS OF SENATOR CARL T. CURTIS BEFORE THE SENATE PRAYER BREAKFAST, WEDNESDAY, APRIL 23, 1969

The first half of what I am about to say is not new. I am going to speak a little bit on the influence of the Bible and Christianity in the beginning of our nation and now.

There was a new book published in late 1968, entitled, "Unto the Generations". Its author is Daniel L. Marsh, President of Boston University. I will be quoting from him liberally and I want to give due credit. All of us have talked and listened to remarks about the Mayflower Compact. Mr. Marsh gives some additional facts that I think are most interesting. He points out that the Separatists in England, who were the people who were to become the Pilgrims, had to meet in secret. One tiny congregation of these devout people worshiped secretly in Scrooby Manor House and the Keeper of the Manor House who permitted them to meet there was William Brewster, who was the father of the famous William Brewster, Jr., who was to become the Elder Brewster of the Pilgrim Colony. Within walking distance of this little hamlet of Scrooby in Middle England lived William Bradford who was to become Governor of the Colony of Massachusetts.

The famous clergyman Cotton Mather made a study of the life of Governor William Bradford. He wrote: "He was a person for study as well as action: and hence, notwithstanding the difficulties through which he passed in his youth, he attained unto a notable skill in languages. The Dutch tongue was become almost a vernacular to him as the English. The French tongue he could also manage. The Latin and Greek he had mastered. But the Hebrew he most of all studied. Because, he said, he would see with his own eyes the ancient Oracles of God in their native beauty. He was also well skilled in History, in Antiquity, and in Philosophy. But the crown of all was, his holy, prayerful, watchful, and fruitful walk with God, wherein he was very exemplary."

It is little wonder that with leadership like this that this colony in spite of hardship and deaths that took one-half their number should so succeed.

Mr. Marsh in his book, "Unto the Generations", relates the journey of these people from England to Holland. The history books that most of us studied in grade school told us that the Pilgrims left Holland because they did not want their children to grow up and be Dutchmen. This wasn't the complete answer. Mr. Marsh points out that Amsterdam was a liberal and progressive city and because of the general worldliness and presence of many heresies it proved a disappointing refuge for the Pilgrims.

As you know, they first moved to another city in Holland, Leyden, and then set out for the New World. They had prospered in Holland. They were well blessed with goods and possessions. As the Separatists were about to leave Leyden for the New World they held a fast, there was a sermon and Holy Communion. Bradford wrote: "So they left that goodly and pleasant city which had been their resting place near twelve years; but they knew they were Pilgrims, and looked not much on those things, but lifted up their eyes to the heavens, their dearest country, and quieted their spirits."

As all of you so well know, these Pilgrims missed the Virginia Colony by some distance. They felt that they were on their own and that they had no government. It was for that reason that they drafted the Mayflower Compact. Orators in the past have called attention to the fact that it began "in the Name of God" and stated that their enterprise was "for the Glory of God." Even though the Compact was short we sometimes lose sight of the fact that the Compact bound the Pilgrims together and pledged them to enact just and equal laws and to grant to those laws all due submission and obedience.

"They stayed in the New World and were loyal to the Compact by which they had determined to govern themselves. Under it they held elections; enacted laws; punished those who violated them; made treaties with the Indians; abolished the commune-scheme with which they had started out; settled their own property question by purchasing the common stock from the Adventures and distributing the land among themselves, the citizens, giving to them titles of private ownership; made Captain Miles Standish head of their military organization, and planted the first permanent independent settlement in the New World. They made of their commonwealth a place where initiative

lay within themselves, and not with landlords, nobility or kings."

Volumes could be written about the influence of Christianity and the Bible from that time to this hour. Some careful students point to World War I as the beginning of certain trends that have resulted in problems for us today. It is interesting to note what our World War I President Woodrow Wilson said in the last statement that he ever composed before his death.

"The sum of the whole matter is this, that our civilization cannot survive materially unless it be redeemed spiritually. It can be saved only by becoming permeated with the spirit of Christ and being made free and happy by the practices which spring out of that spirit. Only thus can discontent be driven out and all the shadows lifted from the road ahead."

It was at the end of World War II that General Douglas MacArthur made one of the greatest speeches of all time when he spoke at the Formal Surrender of the Japanese on the Battleship Missouri. In that marvelous speech he pointed out the horrors of war and man's failure to cope with it by military alliances, League of Nations and treaties. Then General MacArthur said: "The problem basically is theological and involves a spiritual recrudescence and improvement of human character that will synchronize with our almost matchless advance in science, art, literature, and all material and cultural developments of the past two thousand years. It must be of the spirit if we are to save the flesh."

Today, the world seems in turmoil. It is discouraging to read the headlines or the news columns. The time has come for us to quit lamenting about the sad state of affairs, the low moral tone and the loss of faith in some places. We need to look about us and find that the same God who was with this nation in its founding and has blessed it through the years is actually accomplishing miracles within our midst in 1969.

Last Sunday night at the church I attend here in Washington, it was my privilege to hear Reverend Harold Voelkel, D.D., a longtime missionary in Korea. The story he told was fascinating. He was a missionary in Korea at the time that the war was going on. Tens of thousands of North Koreans were taken prisoner. As a missionary, he was called upon by the American forces to minister to these prisoners of war. These POW's were North Koreans, many of them Communists and many of them hard-shelled Communists.

This modern missionary, Dr. Voelkel, could speak the Korean language. He started out conducting evangelistic meetings in a POW camp. The job became so big that he asked and obtained permission of the American forces to use as his assistants native Korean pastors. The converts numbered into the thousands. I watched on the screen a picture of one instance where he was administering Christian baptism to 55 Communist prisoners.

Reverend Voelkel started Sunday Schools. He started schools for the illiterates. He made a correspondence course in the Bible available to them. These POW's responded. He let none of them advance without a written examination which showed the Scriptural basis for their statements. This one effort alone not only transformed the lives of tens of thousands of people and brought them all the hope and power of Christianity but it constituted the only bulwark against Communism.

President Truman was so impressed by the reports that he heard of what was going on in this POW camp that he sent the Chief of Chaplains to visit it and report back. Among these hard-shelled Communists several dozens have gone to theological seminary and have entered the ministry. One of these young men, after preaching in Korea, has now become a Christian missionary to Africa. Once he was a Communist and now he is a Christian missionary.

Another convert to Christianity from the ranks of the Communists in the POW camp fluently speaks Japanese which was the language of Korea before World War II. We are told that the Japanese have migrated to Brazil in great numbers and that they are taking over important segments of the economic life of Brazil. This Christian minister, who was formerly a Communist in a POW camp, is now a missionary in Brazil preaching the gospel in the Japanese language to a group that will determine much of the future course of Brazil.

Some may be surprised that in our time and generation individuals are being tortured and murdered because of their profession of the Christian faith. Reverend Voelkel and his assistants did reach thousands of Communists and many hard-core Communists. There were, of course, numerous hard-core Communists that they couldn't reach. He showed pictures of individual Christians who had been severely beaten and tortured in the POW camp because of their profession of Christian faith. The persecution of Christians went far beyond beatings and torture. He showed us a picture of the POW cemetery and pointed out a rather long row of fresh graves that contained the bodies of those who were murdered in one night by the hard-core Communists who were outraged and determined to stop the spread of Christianity. Ancient times hasn't a monopoly on accounts of Christians laying down their lives for their faith.

All I am trying to say is that for modern liberals and skeptics to say that God is dead does not make it so. And, secondly, that we do not need to go back to the pages of history to prove the involvement of God in the affairs of men.

Our God is sovereign and His Will will be done. It is exciting to see the many ways He works. I became familiar with the Wycliffe Bible Translators when they called upon me to emcee their annual Bible Translation Day in 1967. I was so thrilled at it that I welcomed the chance to perform the same duties on Bible Translation Day in 1968. We might assume that everybody has access to the Bible. That is not true for several reasons. In the first place, the growth of the world's population so exceeds the growth of the Christian Church that there are hundreds of millions of people without the Scriptures, but there is something more startling. I found that there are over two thousand tribes on this earth who have never had a translation of Scriptures. The Wycliffe Bible Translators have set out to complete the job of translating the Holy Scriptures into every tongue on this globe in this century. Fortunately, we live in a day when computers, automatic type-setting machines, airplanes, radio, and other scientific aids can be mobilized into this translation task.

The fact remains, however, that a dedicated Christian must go to one of these tribes, live there, gain their confidence and respect, and create for them a written language and then translate the Scriptures.

Never in the history of mankind has a selfless group motivated by love of mankind attempted to translate any other book and make it available for every tribe on the globe. This is what is happening in our generation with reference to the translation of the Holy Bible. The fact that it couldn't happen with any other book, regardless of its excellence, is ample proof to me that the Bible is of Divine origin and that it is the authoritative revelation of God Himself.

One of the speakers on Bible Translation Day was Mr. Larry Jordan. Mr. Jordan retired at age 26. He decided to seek out a tribe, live with them and translate the Scriptures. He told how great an experience it was to have a part in lifting a whole people from the stone age into the twentieth century. In addition, he brings them the story of Salvation.

In the Christian Business Men's Committee International magazine for May 1968 there is a story about Mr. Jordan. I will refer to it briefly.

"I have felt the Lord wanted me to be a foreign missionary since I was seven years old, and since my high school days another factor entered my thinking. I wanted to be a businessman and make enough money either before I went to the field or after I was on the field so that I would be a self-supporting missionary like Paul. * * * "Time came to go to the mission field—which for the Jordans was the town of Apoala, 240 miles southeast of Mexico City—27 miles off the Pan American highway. * * *

"While working on their translation projects, the Jordans have also aided in establishing an improved irrigation system, better agricultural methods, a town credit union, a cement basketball court, so the children can play outside even in rainy season, and an electric grain grinder that enables grinding of the corn for tortillas in three minutes instead of three hours.

"The town hopes for a factory here for the people to weave beautiful wool sweaters, and thus raise their income—as well as a 50-kilowatt hydro-electric plant for the town."

I have a personal letter from Mr. Jordan dated November 24, 1968, in which he tells me of their great program. The sweater weaving project is underway and they have already received part of the equipment for the electric generator and that the rest is on its way. As to his main job, I want to read the last paragraph of his letter.

"Translation is going at a very satisfactory rate, and we now have first drafts done of Mark, Acts, Romans, I Corinthians, Galatians, New Testament Bible stories, and Old Testament Bible stories in final form—ready for publication. We can hardly wait until the people can start reading God's Word in their own language and participate in the internal revolution that we really came to have a part in."

The thought I would like to leave with you this morning is, first, that all around us at this very time God is working and, secondly, that He is doing a better job than man can do. I dare say that the project of Mr. Larry Jordan will do more lasting good than the entire Alliance for Progress and that the evangelistic effects in the prisoner of war camp in Korea will bring about more good through the generations than the sum total of all of man's programs of economic aid and educational indoctrination to overcome Communism.

The Christian missionary program in the POW camp in Korea and the great work of the Wycliffe Bible Translators do not stand alone. There are many other fascinating and dramatic illustrations happening in 1969 that show what God is doing in our time. We could include in such a list of activities the Billy Graham Crusades, Teen Challenge, Youth for Christ, Campus Crusade, Youth Unlimited, and the Christian Service Corps.

In closing, I will quote Reverend Harold Voelkel, D.D. He said: "God doesn't have problems. He has plans."

GREASING THE WHEELS OF GOVERNMENT

Mr. MATHIAS. Mr. President, the slowness and complexity of governmental machinery is so often criticized that it is really heartening to learn of cases in which applications are processed with some efficiency.

The following Associated Press report of June 14 is self-explanatory, and I ask unanimous consent to include it in the RECORD and commend it to all Federal officials for consideration.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Post, June 15, 1969]

GOVERNMENT SPEED AMAZES OFFICIAL

HAGERSTOWN, MD., June 14.—Francis J. Connolly, director of Washington County social services, said he had never known the wheels of government to turn so quickly.

Connolly said he sent an application for a food-stamp program to the State Department of Social Services on Monday.

The State agency forwarded it to the U.S. Department of Agriculture Tuesday and Federal approval was telegraphed back Wednesday.

"Unprecedented!" exclaimed Connolly.

ECONOMIC DEVELOPMENT AT THE FORT PECK INDIAN RESERVATION

Mr. METCALF. Mr. President, I am proud of the Sioux and Assiniboine Indians on the Fort Peck Indian Reservation in Montana. These tribes are working hard to modernize their reservation and to bring living standards up to the level of neighboring non-Indians—while at the same time they preserve the values of traditional Indian culture.

The tribes have gotten underway with a military rifle renovation plant in Poplar, brought to the reservation by Fort Peck Tribal Industries. The plant employs 120 Indians and makes a major dent in the severe unemployment that has afflicted the reservation.

It has perhaps become trite to speak of the values of the traditional Indian culture. Yet these values are very real. They include a sense of community and a spirit of generosity, values which I think we are sometimes in danger of losing in our larger American society. It is true that American Indians need to learn from us so that they can better adapt themselves to our society and economy; but there is also much that we can learn from them.

An article by John Kuglin in the Great Falls, Mont., Tribune, expresses the optimism felt by the Fort Peck Indians toward the prospect of economic development. At the same time, the article indicates that the Indians are very aware of the need to preserve their ancient values. The article is based on an interview with Anson A. Baker, reservation superintendent, who is a Mandan Indian from neighboring North Dakota, and who has been doing outstanding work on the reservation. I ask unanimous consent that the article be reprinted in the RECORD.

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

TO HELP INDIANS TO HELP THEMSELVES—BIA IS ONLY A TOOL

POPLAR.—"It's a joke to say you can get a job in January on the Port Peck Indian Reservation."

That's an assessment of wintertime unemployment in northeastern Montana by Anson A. Baker, superintendent of the two-million-acre home of the Assiniboine and Sioux.

At a national level, an unemployment rate of 5 to 6 per cent is considered to be a "disaster," Baker said, yet the jobless tally on the Fort Peck Reservation ranges from a "low" of 43 per cent in summer to a winter high of about 55 per cent.

Baker's figures are reinforced by the State Department of Indian Affairs, Helena, which in its annual report said, "Income on the (Fort Peck) reservation is low, living conditions generally are poor and unemployment is a chronic problem." The reasons? They included an educational level lower than non-Indians in the area and a large unskilled labor force.

Another report, prepared by Dynalectron, the company hired by the Indians to manage their rifle renovation plant in Poplar, says about 60 per cent of the women on the reservation are unemployed all year. And 54 per cent of the Indian families of the reservation have an income below the $3,000 level, the federal government's official poverty line.

"Our biggest need is for new job opportunities," said Baker, who pointed out that some of the Indians are so poor they don't have the money to drive to the local employment office. So, they stay on the reservation "and just try to eke out a subsistence living."

The Fort Peck Reservation needs industry—not arts and crafts—said Baker, 41, a Mandan Indian born on the Fort Berthold Reservation in North Dakota.

The brightest hope now for the Indians is Fort Peck Tribal Industries, formed by the tribes in October, 1968, which landed an Air Force contract to renovate 44,000 carbines. This gives employment to 120 Indians in the plant in Poplar (population 2,500), agency headquarters.

Purpose of the plant, initially, was to perform government contracts. The long-range plan is to develop a commercial product or service to reduce the concentrated unemployment problem.

"We tried to make the Indians cattlemen and farmers when statistics showed only 10 per cent of the people in this nation are farmers. After many years we've finally learned that what's not good for the White Man may not be good for the Indian," Baker said.

As Indian industry flexes its muscle, Baker believes Indians' skills and confidence will grow. The tribes have set aside 40 acres on the reservation for an industrial park. Already a Billings construction company has moved in. It will employ about 25 local persons to build low-rent housing units.

Among the more interesting employment proposals under consideration, Baker said, is salvage of submarine netting used in World War II to discourage German submarines from entering American harbors. It could be used for fancy den decorations, he said.

The tribes plan to construct a 30,000-square-foot manufacturing plant, in addition to the 10,000-square-foot Poplar Armory, site of the present rifle plant. The Indians want a vocational training center and expect to find some jobs as Avco Corporation expands its activities at the deactivated Glasgow Air Force Base.

"Our hope," Baker said, "is to create 200 more jobs in the next two years."

The Fort Peck Agency is the first superintendency for Baker, who wears many headdresses. He is the executive during the day, dressed in a sombre business suit. But at one of the Fort Peck Tribes' famous dances, which go far into the night, Baker may be observed in his flower design costume, popular among the Mandans, which took three years to fashion.

Baker makes it clear he isn't against the Fort Peck Arts and Crafts Club that operates the Poplar museum where tourists can buy the tribes' fine beadwork and other items. He points out, however, that arts and crafts on the reservation are conducted on a "piecemeal basis."

The Indian, Baker said, is reluctant "to be put on a sidewalk as a wooden image—a wooden Indian. He has a hidden pride that he cherishes. He feels the White Man's concept of commercialism is an invasion of his privacy. We have a fine museum and there's a place for it. But the geographical location of the reservation doesn't lend itself to tourists like Glacier Park does."

Baker, a father of seven, has been with the Bureau of Indian Affairs (BIA) since 1951. He went to mission and public schools and attended North Dakota State College and Minot (N.D.) Business College. He worked for the BIA at the Blackfeet and Fort Belknap agencies in Montana prior to his Fort Peck assignment.

As a career BIA employee, Baker has some observations on the federal agency. The BIA has been hit with controversy in recent months. First there was the scandal on operation of an Indian boarding school in Oklahoma. That, authoritative sources say, was one reason BIA Commissioner Robert Bennett canceled his appearance last April when the Poplar rifle plant was dedicated. Bennett then resigned, under pressure from the Nixon administration, which apparently was dissatisfied with his performance.

"The BIA," Baker believes, "is only a tool to help the Indians to help themselves. It shouldn't take the leading role." The BIA's role, Baker predicts, will continue to diminish, especially from operating a reservation as a custodial institution. Baker, however, foresees no overnight "termination" of vital health services and other BIA programs.

Replacing the BIA, he believes, will be an increasing participation by Indians in reservation, community and civil affairs. This, he admits, may have some political ramifications in Montana.

Enrollment in the Fort Peck tribes is about 6,200, and about 3,500 of those Indians live on or near the reservation. Congress established a 2.1 million-acre reservation in 1888. Now this real estate, in Roosevelt, Valley, Daniels and Sheridan counties, is checkerboarded with non-Indian land.

In the early 20th century the federal policy was to eliminate the tribes as a political entity and convert the Indians to farmers. Families were given individual land allotments. The rest was sold and the proceeds credited to the Indians. After 1911 homesteaders were allowed to move in. Much of the better land had passed from Indian ownership by 1930.

As a result tribal lands were reduced to the present fewer than 200,000 acres, and an additional 600,000 acres remain in the hands of individual Indians.

Baker believes the impact of industrialization on the reservation, instead of destroying the "old ways," will make the tribal members want to say "I'm proud to be an Indian."

The tribes have a proud history. The Fort Peck Sioux are descendants of the warriors who put up such fierce resistance to the White Man's invasion of their territories. Their ancestors took part in the bloody Minnesota uprising of 1862. Others took a few scalps at Custer's Last Stand during the Battle of the Little Big Horn in 1876. The Assiniboine are closely related to the Sioux and the two tribes have intermarried on the Fort Peck Reservation. Lewis and Clark encountered the Assiniboine in 1805-06 along the Missouri River in what is now North Dakota and Montana.

The Fort Peck Reservation's economy, like that of northeast Montana, is based on beef cattle, wheat and oil. The first oil was discovered on the reservation in 1951 and more than 50 million barrels have been pumped in the area. Poplar Oil Days Celebration attracts about 5,000 and is getting bigger each summer.

Baker believes life on the reservation is gradually improving. New community centers are slated at Fort Kipp, Brockton, Wolf Point, Oswego and Frazer. There is an alcoholism problem, but there is a concentrated effort by many agencies to combat it. More Indians are being admitted to the State Hospital in Warm Springs for treatment.

Baker, quite a dancer himself, believes in the "old ways" of tribal ritual. "A lot of people are accustomed to them," he said, "and they are something that you don't forget." There are, he pointed out, a score of

dancing societies on the reservation, such as the Redbottom Society at Frazer.

"The Fort Peck Indians are keeping alive the intangible elements," Baker said, "that are sometimes overlooked in our society. There is a sense of unity among our people."

DOES EUROPE HOLD THE ANSWERS TO OUR RAPID TRANSIT PROBLEMS?

Mr. ALLOTT. Mr. President, I have addressed myself on many occasions to the need for adequate rapid transit development in this country. I have pointed out that European cities have made great urban transit progress since the end of World War II, while ours has been a slowly dying transit industry.

Fortunately, since the passage of the Urban Mass Transportation Act in 1964, the trend has been partially reversed. Yet in many respects we are worse off today, transitwise, than we were even 5 years ago.

New systems and rapid transit lines are being built, but the planning has been unreasonably slow, and the construction even slower. When new lines have gone into operation, or new cars into service, transit systems have been plagued with a myriad of technical problems.

On the other hand, European cities of all sizes are continually building new rapid transit lines and systems, and they have little of the difficulty we have been experiencing.

I have said for some time now that the United States should not have so much pride that it cannot look toward Europe for direction in sensible, workable transit operations. Granted that America may be superior in almost every other field, but as far as transit is concerned, almost without exception, we are behind the times.

It is for that reason, Mr. President, that I was particularly interested in a report written by Gunther M. Gottfeld, an official of the Massachusetts Bay Transportation Authority in Boston, reciting his observations on the state of rapid transit in Western Europe.

Mr. Gottfeld, who has written extensively on transportation, formerly held a position in the planning division of the Stockholm subway system, and has traveled widely throughout Europe reporting on the various transit projects there.

His views are widely respected in knowledgeable transportation circles, and his report "Rapid Transit Progress in Europe" very closely parallels my own thinking on this important subject. I believe his views should be considered by all who have responsibilities in transportation in the United States.

Mr. President, I ask unanimous consent that Mr. Gottfeld's report be printed in the RECORD.

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

RAPID TRANSIT PROGRESS IN EUROPE

(By Gunther M. Gottfeld)

The writer had the privilege of inspecting public transportation systems in a number of European cities in May, 1969, as part of a trip to attend the Congress of the International Union of Public Transport in London.

Much has been written in recent months comparing transit progress in Europe with that in the United States. There is no question that European cities are progressing more rapidly in achieving a balanced transportation system. It will be distressing for many people to learn this fact, because of this country's abilities and financial resources. Certainly, no country in the world can equal the U.S. in the quality of its airplanes, automobiles, electronics, universities, highways, and many other facilities. But regrettably, it is becoming more evident each day that while we may be the first country in the world to send a man to the moon, we are rapidly becoming the last in solving our pressing urban transportation problems.

The reasons for this phenomena will now be examined in some detail.

1. CONTINUOUS PUBLIC RECOGNITION OF THE NECESSITY OF URBAN MASS TRANSPORTATION

Before World War II, both U.S. and European cities depended heavily on mass transit facilities. Following the end of that war, the U.S. adopted a policy of discouraging the use of transit by devoting almost all of its transportation resources to the building of new highways and other auto-oriented facilities. This has led to the development of low density suburbs, and decentralization and decay of central business areas of the central city. Beginning in the early 1960's, it became evident that this policy was having a disastrous effect on our cities, because more and more land became devoted to the use of the automobile and congestion was increasing, despite a large network of superhighways which were built through the cities. Los Angeles became the extreme example of what can happen to a large metropolitan area when it depends entirely on the automobile.

The intolerable conditions in Los Angeles were instrumental in the passage of the San Francisco Bay Area Rapid Transit District bond issue in late 1962 to spend $1 billion to build the 75-mile network now under construction. This development, plus the passage of the federal Urban Mass Transportation Act of 1964, were probably the two most important factors which generated new interest in urban mass transit.

By contrast, European cities, many of which were destroyed or badly damaged by the effects of the war, were rebuilt with both public transit and automobiles taken into consideration. At the end of the war, automobile traffic in Europe was a minor consideration, but in recent years the increase in auto ownership has been so rapid that in a number of cities the ratio of persons per car almost approaches that in U.S. cities. All during the late 1940's, 1950's and 1960's, while American transit systems have been allowed to decay, European systems have been expanding and improving and preparing for the inevitable competition with private automobiles.

Some forms of public subsidies have always been available to European systems because of the recognition that the fare box cannot cover all costs. In the U.S. subsidies are a relatively new idea, except in a few cities. This policy has permitted European systems to operate at lower fares. The very sizable boost in fares in this country, as high as 40 cents in some cities, has accelerated the trend away from public transit. Chicago is an excellent case in point, where riding has decreased 18 per cent during the last two years.

2. PROMOTING OF BALANCE TRANSPORTATION THROUGH CONSTRUCTION OF NEW FACILITIES

Much has been said during the past ten years about the need for having a proper balance between transit and highways in American cities, but unfortunately these ideas repeated thousands of times, have resulted in little concrete action. While American cities have been talking about balanced transportation, European cities have been achieving it by means of building new rapid transit lines and a network of modern highways. The planning of both means of transportation are completely coordinated with community development. There is no competition between highways and transit. They are both planned to complement each other.

Since the end of the Second World War, new rapid transit systems have been opened in Stockholm, Oslo, Frankfurt, Cologne, Milan, Rotterdam, Lisbon and Rome. New systems currently under construction or to be shortly underway include: Helsinki, Amsterdam, Brussels, Munich, Essen, Dortmund, Stuttgart, Hanover, Nuremburg, Dusseldorf and Bremen. The last seven cities are all in Germany, and the reasons for this large development is explained later. All of the cities having had rapid transit before the war have expanded their systems as rapidly as funds permitted.

During the same period, expansion evolved rather slowly in the United States. Only one new system—in Cleveland—was completed in 1955, and most of the construction for this single line was actually done twenty years earlier. Insufficient funds and the war delayed the completion. There have been some extensions to the existing systems in Boston, Chicago, New York and Philadelphia, but to a much lesser extent than their European counterparts. The one bright spot, of course, is the construction of the BART system in San Francisco. This venture is probably unequalled to anything else in the world, but unfortunately it is only one out of more than twenty metropolitan areas in this country having a population in excess of one million.

Highway construction has advanced rather rapidly because of increased automobile ownership. The Autobahns in Germany are built to approximately the same standards as our interstate highways. Automobile ownership has increased from one car for every 50 persons twenty years ago to one for five. In some cities, the ratio is larger, i.e., in Frankfurt it is one car to every 3.5 persons. Thus it is unrealistic to assume that present high standards of transit are due to a large degree to low automobile ownership.

3. BALANCED FUNDING OF TRANSPORTATION IMPROVEMENTS

Until the passage of the Urban Mass Transportation Act in 1964, no public funds for major mass transit improvements were available for most cities in this country. Even the passage of this Act did not achieve anywhere near a balance. In the current federal fiscal year, only $175 million is being spent for urban mass transit, compared to about $5 billion for highways. This large disparity is caused by the existence of a long-term trust fund financed by motor vehicle fuel and tire taxes which provides adequate revenues to permit massive highway improvements. By contrast, urban mass transit is funded on a year to year basis, and is subject to annual review by the Congress.

The urban mass transit program has never had the strong political support as other programs, particularly the highway program, because proponents of transit have done such a poor job in selling its product to the Congress.

In Europe, motor vehicle fuel taxes are much higher than in the U.S., but these monies go into the general fund rather than be specifically earmarked for highways. National governments in Sweden and Germany are now paying increasing sums for transit improvements. Part of this money comes from motor vehicle fuel taxes. In Sweden, the government now pays 95 per cent of the basic construction of rapid transit lines in the Greater Stockholm Area, which contains almost 20 per cent of that country's population. This assistance will permit Stockholm's subway network to double from 40

miles at present to 80 miles in 1980. It is anticipated that 2,000,000,000 Swedish kronor or $400,000,000 will be spent on rapid transit construction by 1980.

In Germany, gasoline and diesel fuel taxes were increased about 4 cents per gallon to pay for improved transportation. This additional tax brings in between 650,000,000 DM and 750,000,000 DM ($163 million to $188 million) each year. Sixty per cent of this is earmarked for highways and 40 per cent for transit. Except for Berlin, which is heavily subsidized by the German Federal Republic, the transit assistance program pays for 50 percent of capital improvement costs. The remaining 50 percent is paid by the municipalities. This program has permitted many cities to undertake transit improvements, and in addition to Berlin and Hamburg, which had subways for many years, subways are now operating or under construction in Frankfurt, Cologne, Munich, Essen, Dortmund, Stuttgart, Hanover and Nuremburg. Several other cities, including Dusseldorf and Bremen, are expected to get underway shortly.

Without these national grants, it would not be possible for Swedish or German cities to undertake such extensive improvements so quickly. Other European countries also contribute financially for transit improvements, although to a lesser extent.

4. ACCEPTANCE OF IMPROVED EXISTING TECHNOLOGY

Although the availability of public funds is an important reason for the success of European transit, it is by no means the only one. European countries have accepted the conventional modern tworail rapid transit concept as the most logical, efficient and economic means of rapid transit. Except for the basic technology, there is little resemblance between the new subway trains in Berlin with the old elevateds in New York. Every major rapid transit system and extension has and will continue to rely on improved existing technology.

In this country, millions of dollars and many years have been spent on searching for something different. These studies have never proven the advantages of other technology, nor have they disproven the advantages of modern two-rail rapid transit. Unfortunately, these studies have delayed implementation of realistic solutions, and rising construction costs now make many of these improvements financially impossible. The Bay Area Rapid Transit District in San Francisco spent millions of dollars for research and development, and concluded that the modern two-rail system was the only feasible technology for its space-age system. Yet other cities still undertake studies to "re-invent the wheel" despite the extensive finds by BART.

European cities are interested in building facilities with greater capacity. Subways are being constructed to replace surface streetcars and buses. Streetcars in other cities are modern and articulated, operated by one man, and are being placed in subways and reservations to offer a rapid transit type service in cities not having sufficient population to justify heavy rapid transit trains. In the U.S., there appears to be some interest in new types of systems which actually have lower capacity than existing technology. Such proposals as dial-a-bus, bus rapid transit, minibuses, and skybus all utilize low capacity vehicles and in most cases have excessively high labor costs.

The acceptance by European systems of modern two-rail rapid transit does not imply that they are technologically advanced to United States rapid transit systems. As a matter of fact, there is probably no rapid transit system operating in the world today which is as technologically sophisticated as the new Lindenwold line of the Delaware River Port Authority, and a great deal of credit must be given to its engineers who built the line for their foresight in constructing such a superior facility. The major difference between Europe and this country in this area is not one of technology, but rather the determination to implement well-conceived plans rather than to undertake endless studies which produce little or no results.

5. ABILITY TO ATTRACT AND KEEP QUALIFIED PERSONNEL

Transit systems in the United States have been unable to attract educated young people into the field, because for many years transit was considered a dead industry. Now, with a growing recognition of the importance of transit, many jobs are opening and they are often filled by unqualified or lesser qualified persons. The inability to attract good people into the transit field for so many years is in many ways perhaps its most serious problem. There are few outstanding administrators and spokesmen who can sell the message to governmental bodies effectively. This has been a major factor for transit to be short-changed during Congressional appropriation sessions.

European transit systems have always been able to attract qualified talent because of a sense of dedication for public service, and salaries competitive with other fields of work. The recent Congress of the International Union of Public Transport was a far cry from similar conferences in the U.S. The discussions were of a substantive, technical and professional level, in contrast to the dreary sessions held here which are devoted largely to social functions and superficial discussions about balanced transportation and interfaces.

It has been the purpose of this report to bring out the major differences between transit in the U.S. and Europe. In concluding, it would appear that a detailed in-depth study of European transportation systems should be made, with particular emphasis on planning, financing, personnel, operations, administration, and program implementation. Such a study would be extremely valuable as a guide to finally update our ailing urban transportation systems.

HE STILL LIKES THIS COUNTRY

Mr. DODD. Mr. President, it is not unusual to read in today's newspapers that someone has again attacked the United States. Indeed, it has become something of a national pastime to denounce America in the most strident terms.

Therefore, Mr. President, it was refreshing to read the remarks of Eric Hoffer in his column that appeared in the Norwich, Conn., Bulletin yesterday.

I ask unanimous consent to have printed in the RECORD at this point the article by Mr. Hoffer.

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

HE STILL LIKES THIS COUNTRY

(By Eric Hoffer)

I live in a society full of blemishes and deformities. But it is a society that gives every man elbow room to do the things near to his heart. In no other country is it so possible for a man of determination to go ahead, with whatever it is he sets his heart on, without compromising his integrity.

Of course, those who want acclaim and fortune must cater to other people's demands. But for those who want to be left alone to realize their capacities and talents this is an ideal country. It is incredible how easy it is in this country to cut oneself off from what one disapproves—from all vulgarity, conformity, speciousness, and other corrupting influences and infections.

The processional detractors of America are telling us day in and day out that we have been debased and dehumanized by our system of government and our way of life.

We are told the majority of people in this country have no will and no judgment of their own; that we are robots manipulated by politicians, manufacturers and the mass media.

Novelists, playrights, philosophers and critics often depict this country as a land of the living dead. It is a country where sensitive souls are starved and flayed; where nothing nourishes and everything hurts. Nowhere, they say, is there such a boring monotony; monotony of talk, monotony of ideas, monotony of aim, and monotony of outlook on the world.

One American writer, who has spent much of his life in France, says that "America is no place for an artist. A corn-fed hog enjoys a better life than a creative writer."

It is hard to believe that these savage denunciations are based on direct experience with persons and places. I spent half of my life as a migratory worker in California, living with people from every state, and the other half as a longshoreman in San Francisco.

If now, at 66, I consult all that I have seen and experienced over the years I find that the people I have lived and worked with all my life had three outstanding qualities:

(1) They were skilled people. Working with them you knew beyond doubt that they were intelligent and competent; that they would tackle any problem and often solve it in a subtle, original way. They had both technical and social skills so that if dumped anywhere on this planet they could build another America.

(2) They needed very little supervision and leadership.

(3) They were on the whole wonderfully kind. It happened again and again: I would jump off a freight train in some small town and in almost no time it seemed to me that where no one knew me everyone was my brother. I always knew that if ever I wrote the story of my life it would be titled, "A Book of Kindness."

All my life I have seen America from below, and what I saw seemed good to me.

THE RUGGED ROAD TO INDEPENDENCE

Mr. WILLIAMS of Delaware. Mr. President, in the July 1969 issue of the Reader's Digest there appears an excellent article by Thomas Fleming entitled "The Rugged Road to Independence." The writer reviews the days of doubt, debate, and dissension at the time of our Nation's first and greatest decision, the Declaration of Independence.

This article should be read by every American as we approach the 193d anniversary of the signing of this historic document.

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

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

THE RUGGED ROAD TO INDEPENDENCE

(By Thomas Fleming)

Thomas Jefferson awoke as usual with the first faint streaks of dawn. From his second-floor rented rooms, above Seventh and Market Streets, the tall, redheaded Virginian looked out over the city of Philadelphia with foreboding. Today, July 1, 1776, he would find out if for the last three weeks he had wasted his time in the writing and rewriting of a document he had titled: "A Declaration by the Representatives of the United States of America, in General Congress assembled."

Doubting the future of the Declaration of Independence seems almost laughable now.

With comfortable hindsight we ask: Could there really have been any question? The fact is that history as men experience it is totally different from the way those who follow them relive it.

Again and again, America has found itself racked by agonizing decision-making. It is so racked today. Thus it may help to realize that there was the same kind of agonizing over the decision that created our nation. Standing at his window that July 1, the 33-year-old Jefferson could not be sure that his Declaration was even going to be read, much less ultimately immortalized. The Continental Congress had first to decide whether the very idea of independence was acceptable; only then could the members worry about how to phrase it.

THREAT OF DESTRUCTION

Down at the City Tavern, 26-year-old Edward Rutledge, of South Carolina, was also awakening. His thoughts and feelings were dominated by an inflexible detestation of a declaration of independence. On June 7, when one of Jefferson's fellow Virginians, Richard Henry Lee, had introduced a resolution declaring that "these united colonies are, and of right ought to be, free and independent states," Rutledge had leaped to his feet to heap scorn on the idea. It was, he shrilled, "a blind, precipitous measure." It would accomplish only two things, both bad. It would reveal America's intentions to the enemy, and it would make the unborn nation look "ridiculous in the eyes of foreign powers."

In a manor house five miles outside Philadelphia, an even more powerful foe of independence was arising—43-year-old John Dickinson, political leader of Pennsylvania. A year before, almost single-handed, Dickinson had beaten back a surge toward independence, persuading the Congress to present instead a petition to George III, begging His Majesty to redress America's grievances. Although the king had callously rejected the petition, Dickinson believed that to make a declaration now would be like "destroying a house before we have got another, in winter, with a small family."

Thus Dickinson had joined Rutledge in vehemently opposing the June 7 resolution. After three days of wrangling, the Congress had compromised. It ordered Jefferson to begin drafting a declaration—but there would be no vote on indepedence until July 1. By then, perhaps, opinions might be closer to unanimity.

Both sides were acutely aware that near-unanimity was called for. John Dickinson had already threatened John Adams, of Massachusetts, one of the most outspoken independence men, with a weapon that could make a mockery of the whole idea of independence. "Concur with us," Dickinson had snapped, "or we'll break off from New England." If powerful Pennsylvania made such a decision, New York, New Jersey, Maryland and Delaware might follow suit. Thus, instead of uniting the colonies, independence might well destroy them.

TEMPERATURE: HIGH

These and other gloomy thoughts were in the minds of Thomas Jefferson and his fellow delegates as they made their way down dusty Chestnut Street to the handsome red-brick Pennsylvania State House, where Congress was sitting. There, as the tower clock struck nine, tall, elegant John Hancock strode to the President's chair and gaveled the Congress into session. (Jefferson, with his scientist's curiosity, noted that the temperature stood at 81.5 degrees.)

First came reports from American armies in the field. None of them was likely to inspire a waverer to vote for independence. In the North, the once-proud army that had invaded Canada was in headlong retreat, ridden by disease and dissension. In New York, Commander in Chief George Washington's army of 19,000 was desperately short of ammunition—and a huge British fleet had been sighted off Sandy Hook. In the South, a British army supported by a naval squadron was battering at Charleston. British forces attacking from three directions—and some men of Congress wanted a vote for independence!

By noon the tension in the room was almost unbearable, and the Congressmen gratefully escaped into the State House yard for an hour's recess. On their return, they resolved into "a committee of the whole," under the chairmanship of Virginia's Benjamin Harrison, so that everything said or voted would be unofficial. The purpose was to encourage every man to speak his mind.

ALL-OUT WAR

Instantly, John Dickinson was on his feet. What was there to gain from declaring independence, he asked. Would it add a single man to the cause? Would it impress the nations of Europe? Or would it make them think that the Americans were blustering windbags, proclaiming as a fact something they had yet to prove against the British armies?

Outside, nature added to the drama of Dickinson's powerful speech. Huge clouds had formed above the city. Now thunder crashed, and lightning streaked the sky. Candles were lighted against the room's sudden gloom.

Dickinson spoke on. A declaration of independence was a declaration of all-out war. Did the members know what that meant? "The burning of our towns. The setting loose of the Indians." War against the richest, most powerful empire in the world. Could America depend on her own people to stand firm in a war "rendered more cruel" by this declaration? "In bitterness of soul, would they not complain against it as madness, rashness?"

In the momentary stillness that followed these ringing words, rain could be heard lashing against the windows. John Dickinson sat down. All eyes in the silent room turned to the stumpy, 41-year-old delegate from Massachusetts, John Adams. Only he could answer Dickinson.

Wearily, Adams rose to his feet. For months he had been living on four hours' sleep a night, serving on more committes than anyone else in Congress, writing endless letters and reports, battling each day on the floor for independence. For a moment he wondered if he could go through with another repetition of "what had been repeated and hackneyed a hundred times, for six months past." But the moment he began, the immense importance of the subject gripped him again, and weariness vanished from his voice. In the pounding, vehement style that had made him one of the dominant voices in Congress, he gave the greatest speech of his career. Of that speech, Thomas Jefferson would later say that it had "a power of thought and expression that moved us from our seats."

How many times, Adams asked, did Americans have to see their humble petitions scorned, before they realized that George III was an enemy? With armies invading from three directions, who could still be deluded by rumors of reconciliation? The hour had come, said Adams, for the people of America to decide whether to submit as slaves or to fight as free men. At Lexington and Bunker Hill, George III had destroyed the loyalty of most Americans forever. A declaration would tell this to the world, win friends, perhaps allies. More important, it would rally thousands of men and women who were temporizing. As for himself, Adams cried, "All that I have, all that I am, and all that I hope for in this life, I am now ready to stake on this resolution. Live or die, survive or perish, I am for the Declaration."

NIGHT OF NEGOTIATION

Benjamin Harrison called for a vote. Around the room the ayes and nays went. The results were grim: only nine colonies were in favor of a declaration. Pennsylvania and South Carolina had followed their leaders into opposition. Delaware had split, one to one, thereby canceling its vote. New York had abstained. Four delegations, almost a third of the 13, not voting for independence! Quickly, Edward Rutledge moved that an official vote be postponed until the following day.

A night of frantic negotiation and desperate action began. Thomas McKean, of Delaware, hired an express rider with the fastest horse in Philadelphia to cover the 80 miles to Dover. There he was to find Caesar Rodney, a pro-independence delegate who had gone home on business. If he could be got back to Philadelphia in time, he would swing Delaware's vote.

At the City Tavern, Edward Rutledge debated far into the night with his fellow Carolinians. He was still against a declaration of independence. But he was statesman enough to see that a split of even one colony could be a first step toward disunion and disaster.

New Yorkers, conferring with pro-independence men, admitted that they were in favor of a declaration. But they were under specific instructions from home *not* to vote for independence. They would continue to abstain.

This left Pennsylvania. For sleepless hours, John Dickinson struggled with his conscience. One of his chief Pennsylvania supporters, Robert Morris, had urged him to submit to the will of the majority. But Dickinson, Quaker-bred could not vote war's suffering on his people, whatever the majority willed. He sent word to Robert Morris that he was staying home from Congress on July 2, and that perhaps Morris should do the same thing. This meant that Pennsylvania's delegation would be reduced to five. Two were for independence, two opposed; one, John Morton, was undecided.

THROUGH GLOOM TO GLORY

July 2 dawned rainy and cooler. Through the muddy streets the delegates clumped to the familiar chamber. The absence of Dickinson and Morris was instantly noticed. But the independence men grimly noted another absence: Caesar Rodney's. Had the messenger failed in his mission? All morning and into the afternoon, President John Hancock delayed the vote with other business. Finally further delay was impossible.

Name by name, Secretary Charles Thomson called the roll of the delegates. The nine yeas of the previous day caused no suspense. New York politely declared its abstention. Pennsylvania's vote split two-two until John Morris rose, weak from the disease that was to kill him a few months later.

Morton shared John Dickinson's dread of the impending war. Only a month earlier, he had said: "The contest is horrid. Parents against children, children against parents." But now he voted, in a voice tight with anguish, for independence. John Adams had convinced him.

And Delaware? Outside, Thomas McKean had spent most of the day straining eyes and ears for sight or sound of a horseman. As the vote rolled away inside, McKean at last saw what he was praying for. Covered with mud after an all-night ride, Caesar Rodney slid off his horse. Minutes later, he rose in the meeting room to declare, "The voice of my people at home is for independence. I concur."

Now it was South Carolina's turn, and the independence men sighed approval when Edward Rutledge announced that his state was joining their ranks.

In a voice that trembled with suppressed excitement, President John Hancock read the result: for independence—12; against—none. The great decision had been made.

Everyone present in Congress that day, July 2, assumed that thenceforth it would

be known as Independence Day, "I believe that it will be celebrated by succeeding generations as the great anniversary festival," John Adams wrote to his wife, Abigail. But he and the others did not reckon with the power of the written word. Little of John Adams' magnificent speech was recorded. Congress, after debating various deletions and additions to Jefferson's Declaration of Independence, voted approval of the edited document on the evening of July 4. And thus Jefferson's brilliant prose has been indissolubly linked in American minds with independence.

Yet some of sturdy John Adams' praise of independence deserves to be remembered by Americans forever. "I am well aware of the toil and blood and treasure that it will cost us to maintain this declaration," he wrote to his wife. "Yet through all the gloom I can see the rays of ravishing light and glory. I can see that the end is more than worth all the means; and that posterity will triumph in that day's transactions, even though we should rue it, which I trust in God we shall not."

IDEALS AND BEHAVIOR INCONSISTENT ON FORCED LABOR CONVENTION

Mr. PROXMIRE. Mr. President, today, I refer to the Forced Labor Convention, one of the human rights treaties still before us, despite its introduction over 5 years ago.

In the Universal Declaration of Human Rights put forth by the General Assembly of the United Nations in 1948, article I states:

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article II goes on to stress:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

One of these basic rights is enumerated in section 1 of article 23:

"Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.

Using this clause on the rights of labor as a common base, the Social Council of the United Nations and the International Labor Organization—ILO—decided to work together to strengthen and define the rights of labor all over the world. As a result of this cooperation, the ILO adopted in 1948 the Freedom of Association and Protection of the Right To Organize Convention, and in 1949 the Right to Organize and Collective Bargaining Convention. The International Labor Organization and the United Nations also established a Committee on Forced Labor in 1951.

This committee based its inquiry on allegations that forced labor existed in certain countries or territories. These complaints came from both governmental groups and private citizens in over 20 countries. The final report of the committee, issued in 1953, concluded that two systems of forced labor existed in the world; the first being employed as a means of political coercion or punishment for holding or expressing political views; the second, for important economic purposes. The committee, moreover, felt that its inquiry had revealed facts shocking and serious enough to threaten fundamental human rights and to jeopardize the freedom and status of workers as outlined in the provisions of the United Nations Charter. Hence, it formally urged that all such systems of forced labor be abolished.

In 1954, both the Economic and Social Council and the General Assembly condemned these systems of forced labor and appealed to all governments to reexamine their laws and administrative practices. They also requested the Secretary General of the U.N. and the Director General of the ILO to prepare a new report. This new publication again condemned all systems of forced labor employed as a means of political coercion or punishment for holding or expressing political views, and the Economic and Social Council urged that action be taken to eliminate forced labor.

But the ILO was determined that much more could be done in this field. Thus, after meeting in Geneva in 1957, the organization adopted a Convention on the Abolition of Forced Labor. Under this convention, the parties signing it are obligated to suppress, and not to use, forced or compulsory labor:

First, as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic systems;

Second, as a method of mobilizing and using labor for purposes of economic development;

Third, as a means of labor discipline;

Fourth, as a punishment for having participated in strikes; and

Fifth, as a means of racial, social, national or religious discrimination.

As of May 1, 1969, 85 countries had ratified the convention which entered into force on January 17, 1959.

Mr. President, the United States is not one of those 85 nations. This, despite the fact that the late President Kennedy submitted this convention to the Senate for ratification on July 22, 1963, almost a full 6 years ago. In asking for the Senate's constitutional consent, President Kennedy said:

The United States cannot afford to renounce responsibility for support of the very fundamentals which distinguish our concept of government from all forms of tyranny.

Mr. President, I urge that we act now to rectify this seeming paradox between our stated ideals and our inconsistent behavior. We, as Members of the Senate, have full power in this area. Let us make the ratification of this Abolition of Forced Labor Convention one of our primary pieces of business.

CHICKEN IN HOTDOGS

Mr. MATHIAS. Mr. President, one vital issue currently being debated is the future of that great American institution, the hotdog. At issue is whether, and under what conditions, chicken should be included as an ingredient in hotdogs.

Recently my fellow Marylander, the Honorable ROGERS C. B. MORTON, summarized his thoughts on this question in a succinct statement. In calling attention to his remarks, I would like to note that, for those who would like to sample a "chickendog," Representative MORTON has invited us all to a "chicken-in" on Tuesday afternoon, June 24, from 5 to 7 p.m. in the caucus room of the Cannon House Office Building. This is a chance for some basic research on this challenging question.

I ask unanimous consent to include Representative MORTON'S statement at this point in the RECORD.

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

STATEMENT OF ROGERS C. B. MORTON, MEMBER OF CONGRESS, FIRST DISTRICT OF MARYLAND

Technological developments in recent years have made it possible—and economical—to offer chicken meat in addition to red meat for inclusion in hot dogs and other sausage products. Unfortunately, regulations handed down by the Department of Agriculture have hindered the growth of this new market for chicken products.

The purpose of the labeling and content regulations established by the Department of Agriculture should be to assure the consumer he is purchasing a healthful and nutritious product, not to dictate to the manufacturer which meats, and in what proportions, may be included in this product.

I can see no logical reason to require the name of a sausage product to be changed merely because it contains chicken meat. Under the dictionary defintion and the consumer definition, chicken is meat just as beef and pork are meats. While poultry could not be included in an "all beef" product, there is no reason it cannot be included in "all meat" products.

Further, taste tests have shown no significant change in flavor, texture or appearance results from the use of chicken meat in sausages. Thus, I would urge no limitations be set by the Department on the amount of chicken which may be included.

The poultry growers in my District have no objection to an indication on the label of the inclusion of chicken, provided the indication is similar in form to that of the red meat products. It would seem to me that the description "comminuted" is unnecessary, since all meat products included in sausage products are, in fact, comminuted.

The proposed restrictions on the amount of bone and skin which may be included could be very harmful to competition. I urge that the regulations permit the inclusion of skin in proportion to the amount normally associated with the chicken-part used; and that the present 1.5% limit on bone inclusion be retained, since USDA studies have shown no harmful effects derive from such amount.

In summary, let me emphasize that the poultry industry seeks no special consideration in processing or offering its product for use in sausages. On the other hand, we want to be certain that unnecessary or unfounded regulations do not restrict the ability of the industry to compete in the marketplace with other meat products.

THE FEDERAL CITY COLLEGE IN THE DISTRICT OF COLUMBIA

Mr. TYDINGS. Mr. President, it was with great concern that I learned of the questionable status of the land-grant funds for the Federal City College. This college, in its first year of operation here in the District of Columbia, is already making great strides in determining the

role of a land-grant institution in an urban community. And this role is truly great.

A land-grant college is a college committed to reaching off campus to help people to help themselves. There is no question that this can be applied to an urban scene. Already the Federal City College has instituted 4-H programs reaching over 1,500 youths in its first 6 months. Its nutrition education aide program has reached over 4,000 people in 800 families. A full freshman curriculum is being instituted at the Lorton Correctional Center in order to enable the inmates to be paroled to the college. Extensive community and adult education courses have been established, all of which are truly carrying out the tradition of the land-grant college—that is, the people's college.

Now we find that the $7.2 million endowment making these programs possible is in jeopardy. The House of Representatives has already approved this endowment in addition to a $375,000 cooperative extension budget for the Federal City College. As these appropriations are pending before the Senate, I would like to insert in the RECORD an article appearing in the Spectator, the bulletin of the National University Extension Association, entitled "Urban Extension Programs," which further explains the tremendous role the Federal City College is and must play as an urban land-grant college, and I encourage my fine colleagues to take favorable action on these pending measures.

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

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

URBAN EXTENSION PROGRAMS: FEDERAL CITY COLLEGE AND SYRACUSE UNIVERSITY

(By Eugene Wiegman, dean, Community Education)

"What does a land grant college do in an urban area?" a question asked of President Farner and me on numerous occasions by U.S. Congressmen. This question came up repeatedly when working legislation through Congress naming the Federal City College, the land grant college for the District of Columbia. We answered the question by saying, "We will do the same as other land grant colleges—that is reach off campus to help people help themselves."

In June, 1968 Federal City College became the 69th land grant college, the first new land grant institution in 50 years. The Federal City College differs from other land grant universities in that the entire population of the District of Columbia is urban. How is the Federal City College organized to bring the spirit of land grant to the people of Washington, D.C.?

The Federal City College's land grant functions of Cooperative Extension Service, general extension, continuing and adult education, community assistance, and special programs (Headstart, Model Cities, etc.) are in the Office of Community Education. The chief officer is the dean of Community Education, assisted by two associate deans and an assistant dean. At the present time the dean is also director of Cooperative Extension Service; U.S. Department of Agriculture, for the District of Columbia. He is also the liaison officer with Washington Technical Institute in cooperative programs under land grant status.

Community Education functions are separated into three areas:

(1) Cooperative Extension Education Programs are under the leadership of Associate Dean Selma Lippeatt. Programs that are presently under way deal with nutrition education, home living, family counseling, child care, 4-H youth development, family stability and human development. Presently, there are five professional staff members, called community educators, and 31 paraprofessionals and aides carrying out the programs. The goal in cooperative extension service is to reach 4,000 persons in 800 families and 1,500 youth by June 30, 1969.

Aides and paraprofessionals trained and supervised by community educators visit homes teaching and demonstrating skills in home management, consumer education, buymenship practices, and child care. The nutrition education program emphasizes assisting low income families to purchase and prepare nutritious meals. In many cases it means using food purchased through food stamps.

4-H youth clubs are being established in the District emphasizing projects in photography, electronics, sewing and cooking, citizenship, beautification and general recreation. John Thompson, former basketball player is heading-up the 4-H youth development.

Regional Training Officer, Miss Cleo Shakespeare, is responsible for the in-service training of Headstart personnel in the District of Columbia and Northern Virginia (Metropolitan Washington, D.C.). The program serviced 2,000 personnel this past year in workshops, short courses, etc. She also visited 52 individual classrooms observing Headstart programs.

(2) General Extension Adult and Continuing Education: This phase of Community Education is geared to respond to the educational needs of citizens, the government and public and private organizations. Community educators working closely with citizens structure educational programs for specific purposes. Before any program is begun, a community educator meets with citizens and designs extension courses or programs of study. Twenty community educators, two paraprofessionals, and six students carry out programs in general extension.

Presently, Community Education has programs in conversational English as a second language, black history and consumer education. Also in Adams-Morgan, where a community educator has been concentrating his efforts, the area's community council has for the first time in its history elected Spanish-speaking adults and teenagers to its board. Federal City College's community educator helped the council draw up a proposal for a youth development program. He also helped distribute Christmas gifts to needy families.

Another current program brought together Federal City College, Georgetown University, and Afro-American Resources, Inc., to develop a 56-session training institute for the Shaw area's Model Inner City Community Organization. Designed to further total community participation in vital decision-making, the institute deals with the history and functioning of urban renewal in the U.S.A. and in Washington, the Washington power structure, and MICCO's relationship to it and to the Shaw community it serves. MICCO board members, staff paraprofessionals and volunteer workers are participating in the training program.

One program recently completed was a six-week course on the use of arbitration and mediation techniques in resolving community disputes between parties such as landlords and tenants, welfare agencies and clients, and consumers and merchants. The course got underway in mid-November for members of 20 neighborhood organizations.

The College's manpower program has met its goal of encouraging student concern for social and employment problems facing the community. Working with existing community groups in southeast and southwest, under directorship of community educators, ten Federal City College students spent much of the fall quarter talking to a cross-section of the populace, gathering information and rendering service. As a result of their activities, the students wrote a proposal to set-up their own program. On April 1, 1969 the proposal was funded under Title I of the Higher Education Act and will continue until August 31, 1969.

Since November, Community Education has been involved in Project Work Incentive. Eight Federal City College staff members, including two students, are helping to teach and coordinate the project.

(3) Extension courses: Seeing the need to reach adults who are not enrolled as students of Federal City College, the Office of Community Education has begun a series of extension courses with heavy emphasis on the community, human development and black awareness. These courses are under the direction of Assistant Dean Andress Taylor, and include: "Unions and Government", "American Racism", "History and Culture of Black America", "English as a Second Language", "Community Development", "Principles of Business Administration", "Human Development".

The Office of Community Education has extension programs at the D.C. Lorton Reformatory for inmates with high school diplomas. Two sections of "Introduction to Urban Social Institutions", a freshman course, began in March. An entire freshman college year will be offered at the Reformatory with the hope that when the inmates are paroled they will attend the College to complete requirements for an AA or BA degree.

Community Education also sponsors a number of conferences and workshops primarily for professional groups. The Federal City College will, for example, co-host the Adult Education Galaxy Conference in December, 1969.

In April, Community Education will televise over Station WTOP, daily half hour programs, numbering 65, on the subject of "The Black Experience in America". In the future such courses will be televised for college credit.

Community Education is offering two sections of community organization and one section of proposal evaluation for the Model Cities ward councilmen and commissioners. In addition, the College is working closely with Model Cities staff on educational matters.

Community Education is offering a course through the Federal City College Skills Center, called "Introduction to the Teaching of Reading" for 15 teachers at Calvin Coolidge High School. The teachers in this course will organize a reading project at Coolidge High School using the techniques which they learn in this course.

THE FUTURE

Community Education at Federal City College has reached over 10,000 citizens since September, 1968. Its goal is to touch the lives of at least 30,000 citizens and youths in one way or another during the coming academic school year. Since Federal City College is the only comprehensive institution of higher learning in Washington, D.C., the College feels it has a unique function to reach out to people in such a way as no other agency or institution can in the City. We feel we are carrying-out and enhancing the glorious tradition of the "people's college"—the Land Grant College.

A CABAL AT THE FEDERAL TRADE COMMISSION

Mr. CURTIS. Mr. President, the Federal Trade Commission is the unquestioned leader of all of the independent regulatory agencies in terms of the vol-

ume of criticism received in recent months. From every conceivable quarter, we continue to hear insistent demands for reform. As the crescendo increases, it is important to comprehend the precise nature of these demands, since the Federal Trade Commission is or should be one of the most important arms of Congress.

In January of this year, a group of young investigators organized by Ralph Nader published a 185-page report calling for the resignation of the present Chairman of the Commission and a sweeping overhaul of the agency's policies, practices, and staff. This group spent 3 months last summer checking FTC files and interviewing officials at FTC's Washington headquarters, where their enthusiasm and persistence earned them the name of "Nader's Raiders." Of the present Chairman, Paul Rand Dixon, that report urged that his "chief and perhaps only contribution to the Commissions' improvement would be to resign from that agency that he has so degraded and ossified."

Mr. President. I ask unanimous consent to have printed at this point significant parts of that report.

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

1. PARTISAN POLITICAL ACTIVITY

The official image of the Federal Trade Commission is, as it should be, that of a nonpolitical agency regulating interstate commerce against anti-competitive and unfair practices in the public interest. In order to insulate the agency from party politics, the original law provided that no more than three Commissioners could be from the same political party. For the same reason the Commissioners' tenures run for seven years at staggered intervals. On the staff level the Hatch Act, 18 U.S.C. Sec. 602 (1964), prohibits the soliciting of political funds by government employees. In addition the Civil Service Commission forbids party discrimination in hiring policy.

Yet in the case of the present regime at the FTC, the Hatch Act and the Civil Service Law are regarded as more rhetoric to which lip service is paid publicly, but which are in reality either ignored or circumvented. Most attorneys at the FTC are labelled as either Democrat or Republican and their party affiliation has a definite impact on the positions they are offered. All staff attorneys at the FTC from Bureau Chief[1] to Executive Director hold their positions on appointment from Chairman Dixon who, in effect, may replace them whenever he desires and reduce them from a supergrade to a GS–15. Ideally then, the Chairman rotates the FTC staff in order to place the best men at the top of each operating bureau. When Mr. Dixon became Chairman in 1960, it seems that the "best men" were all Democrats and so any Republican in a high position was offered the choice of either becoming a trial lawyer at the bottom of the organization chart or, of course, resigning from the Commission.

As a result of this extremely partisan policy, fourteen highly experienced career FTC men left the commission almost immediately. In November of 1961, *Advertising Age* claimed partisan politics as the major consideration in a reorganization of the FTC and that, as a result the quality of key personnel "ha(d) deteriorated." *Advertising Age*, Nov. 20, 1961 p. 13. In time, most of the other Republicans found it hard to swallow their pride and left. A few able Republicans such as the former Assistant Executive Director, Basil Mezines, and attorney John Walker have stuck it out. For eight years, however, their position as being "out" men, has grown increasingly uncomfortable.

Of the nearly five hundred lawyers working for the Commission only about forty are now Republicans with approximately twenty of these being located in the central office. At the present time only one Republican holds a position of any prominence in the operating bureaus of the FTC: Mr. Charles Moore, who has recently succeeded Sam Williams as Chief of the Bureau of Field Operations. Mr. Moore, is a Republican, but in his case there is the extenuating factor of his coming from Johnson City, Tennessee. See p. 110, below. The extreme partisanship of the higher staff combined with the control they wield over the selection and promotion process has made these results inevitable. See p. 120, below.

In addition to permitting his staff to violate both the spirit and the letter of the Civil Service Law, in promotion and hiring practices, Chairman Dixon, himself, has violated the Hatch Act. Highly reliable sources at the FTC revealed to this project that until recently Mr. Dixon was notorious for dunning the agency's personnel down to the GS–14 level for political contributions. This group includes approximately one quarter of the more than 450 lawyers working in the central office in Washington. The chief collector of dues used to be Fletcher Cohn who holds the title of Assistant General Counsel for Legislation with a salary of $24,477 per year. Mr. Dixon's reputation with the democratic fund raisers is reported to be excellent. It is also known in the high echelons of the Commission that Chairman Dixon is openly proud of his fund raising, and well he might be. His methods would make any chairman of an alumni fund raising committee jealous. Members of the staff have testified to receiving solicitation cards from the Democratic National Committee with a code number in the corner which everyone involved knew would indicate to Chairman Dixon who gave and who did not. This outrageous method of solicitation was not well received by those who were being coerced to give against their will. Eventually, the threat of action by the Justice department under the Hatch act forced Chairman Dixon to give up this political exploitation of his employees. He now uses more discreet methods to do his political fund raising inside the FTC. Now, for example, he personally asks his subordinates to buy $100-a-plate tickets to Democratic fund raising dinners. Thus Chairman Dixon persists in playing partisan politics, while neglecting his responsibilities as a public servant.

Mr. CURTIS. Mr. President, the group's other recommendations, of a more substantive nature, were summarized in the New York Times on January 6, 1969.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD this Times article.

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

FTC INCOMPETENT, SAYS INQUIRY SET UP BY NADER

(By John Morris)

WASHINGTON, January 5.—A team of investigating law students charged today that consumer interests were inadequately protected by a complacent Federal Trade Commission with an incompetent staff under the domination of a politically minded chairman.

In a 185-page report, the seven investigators from Yale and Harvard called for the resignation of Paul Rand Dixon, commission chairman, and a thorough overhaul of the agency's policies, practices and staff.

The team was organized by Ralph Nader, the crusading writer and lecturer on consumer causes, and directed by John Schultz, a 1968 graduate of the Yale Law School who is an assistant law professor at the University of Southern California.

The young investigators spent three months last summer checking files and interviewing officials at the commission's headquarters, where their enthusiasm and persistence earned them the name of "Nader's Raiders."

Mr. Nader said that he had given the team "some guidance and some leads" but that he had taken no part in writing the report. Except for a $500 grant to Mr. Schultz by the Yale Law School, the students said they had paid their own expenses in making the study. Mr. Schultz said he had agreed to write an article for The Yale Law Journal.

Mr. Dixon, who was blamed by the students for most of the commission's shortcomings, said he did not care to comment on the report. Commissioner Philip Elman commented by recalling a speech in 1961 in which he quoted findings in 1949 of a study commission headed by former President Herbert Hoover.

The Hoover Commission called the F.T.C.'s record "disappointing" and said the agency had become "immersed in a multitude of petty problems," had not "probed into new areas of anticompetitive practices" and was "increasingly bogged down with cumbersome procedures and inordinate delays in the disposition of cases."

"Despite some progress made in recent years," Mr. Elman said, "this appraisal of the Federal Trade Commission has much validity today."

Many of the charges made by the Hoover Commision and other investigators since then were also made by the Schultz team. But no other report was comparable in the use of colorful language and superlatives. For the first time, high staff members of the commission were publicly accused of alcoholism as well as incompetence, indolence and political * * *.

ALCOHOLISM CHARGED

Without naming names, the Schultz report said that "alcoholism, spectacular lassitude and office absenteeism, incompetence by the most modest standards and lack of commitment to their regulatory missions are rampant at these [high staff] levels."

Noting that the chairman has sole jurisdiction over hiring and directing the staff, the investigators said that "most of the commission's weaknesses and misdirection can be laid at the doorstep" of Mr. Dixon.

"Mr. Dixon's chief and perhaps only contribution to the commission's improvement would be to resign from the agency that he has so degraded and ossified," they said.

"His resignation will indicate to the American consumer, who has been deceived, defrauded and ignored for profit by corporations both large and small, that the F.T.C. is prepared to protect his interest as demanded by law."

They said a new chairman should undertake "the formidable task of uprooting the political and regional cronyism which has for years prevented the F.T.C. from achieving its mandate to defend the hapless consumer."

Here are a few of the report's other charges, most of which were accompanied by official statistics and other documentary evidence.

In detecting unfair or deceptive trade practices, the commission relies too heavily on

[1] Division chiefs were removed under the cover of a general reorganization of the Commission. A similar reorganization took place in 1952 when the Republicans came in, but was initiated and planned from outside the agency. Chairman Dixon, however, was the chief architect of the 1961 reorganization.

complaints by aggrieved consumers while it should extensively monitor television commercials and conduct aggressive investigations of trouble spots, "particularly in ghetto areas."

The commission handles too many trivial cases and should establish priorities in accordance with the importance of the problem. It "has not given appropriate attention to the largest companies."

A general decline in enforcement activity "is matched by a shift in emphasis to greater reliance on 'voluntary' enforcement tools. Industry-wide guides and trade rules "themselves are sanctionless, making their effectiveness seriously questionable."

The commission's powerful enforcement tools, such as seeking preliminary injunctions and criminal penalties, are "under-used and ill-applied," its program of insuring compliance with cease-and-desist orders is "grossly inadequate, and enforcement delays are excessive."

The commission masks its failures by misrepresentation, secrecy and "collusion with business interests."

Partisan politics are played, contrary to civil service laws, in hiring the staff. Of nearly 500 lawyers on the payroll, only about 40 are Republicans. Key personnel are hired largely on the basis of their political connections, and Southern Democrats are favored. It was noted that Mr. Dixon came from Tennessee.

In recruiting young lawyers, Ivy League schools are largely ignored and graduates of Southern colleges are favored. The commission hires Negroes, but only "in their place," giving most of them jobs in the four lowest Civil Service categories.

Members of the investigative team, beside Mr. Schultz, were Judy Areen and Edward Cox of the Yale Law School; William Howard Taft 4th, Robert Fellmeth and Andrew Egendorf of the Harvard Law School, and Peter Bradford, a 1968 Yale Law School graduate who is now special assistant to Gov. Kenneth M. Curtis of Maine.

Mr. CURTIS. Mr. President, more recently, the President-elect's task force on productivity and competition has focused upon the Federal Trade Commission. In its report made public last week, the task force stated that the Federal Trade Commission is in urgent need of reform and renovation.

Too many critics of the Commission have fallen into the familiar trap of confusing personalities and people with the institution itself. In disagreeing with the views of present personnel of the Commission, some would have us abolish the agency or transfer its functions to another agency. Such drastic remedies are not warranted, at least until this new administration has appointed a new Chairman and he has had a full opportunity to reexamine in depth the agency's basic mission and programs.

It must be kept in mind that the present furore surrounding the FTC is not new. I was in the Congress in the late 1940's when similar criticisms were heard, and the Hoover Commission conducted an extensive examination of the Commission. Based upon that Commission's detailed recommendations, President Truman submitted Reorganization Plan No. 8 to the Congress on May 24, 1950.

Mr. President, I ask unanimous consent that this reorganization plan be printed at this point.

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

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING REORGANIZATION PLAN NO. 8 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE FEDERAL TRADE COMMISSION

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 8 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Federal Trade Commission. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 8 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 8 OF 1950

(Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949)

FEDERAL TRADE COMMISSION

SECTION 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Federal Trade Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of members of the Commission other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

SEC. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

SEC. 3. *Designation of Chairman.*—The functions of the Commission with respect to choosing a Chairman from among the membership of the Commission are hereby transferred to the President.

Mr. CURTIS. Mr. President, as a result, the power to appoint the Chairman was vested in the President, and there were transferred to the Chairman the principal executive and administrative functions formerly exercised by the Commission as a whole, including the appointment and supervision of personnel, the distribution of the agency's business among personnel and among administrative units, and the use and expenditure of funds. The principal purpose of this streamlining move was to achieve greater efficiency, since the Hoover Commission had found that the Commission, acting as a five-headed executive, had become "immersed in a multitude of petty problems" and was "increasingly bogged down with cumbersome procedures." In approving the Hoover Commission's reorganization plans and transfer of functions to the Chairman, the President said it was expected to result in "more businesslike and effective administration" of the FTC regulatory program.

There is no question that the Hoover Commission's approach to the FTC problem was sound and constructive. If it had been implemented as intended by an experienced and qualified Chairman, much of today's criticism would have vanished overnight. Unfortunately, a cabal of present FTC Commissioners have now made known their intent to disregard the intent of Congress and Reorganization Plan No. 8. I am advised that certain Commissioners, all appointed by our last President, claim that they—not the Chairman or new Chairman—have the right to hire and fire personnel and to organize the Commission as they see fit. If this scheme of the present Commissioners and the present Chairman is effectuated, the new Chairman of the Commission, whom President Nixon will appoint, will become a mere figurehead stripped of the powers transferred and entrusted to him under Reorganization Plan No. 8.

Specifically, I point out to the Senate that very recently FTC Chairman Dixon, who will be replaced in the near future, appointed his assistant to the position of General Counsel. Immediately thereafter Chairman Dixon published an opinion which would have the effect of freezing in office almost all nonclerical staff members on the Commission. This opinion by Chairman Dixon would have the effect of requiring full Commission approval of all Commission staff appointments. In other words, although the administration has changed, and the chairmanship of the Commission will change in short order, the same political staff that has infested the FTC in the past, will remain in office for the foreseeable future. This Dixon opinion is now before the Civil Service Commission for approval. If this cabal by the present Commissioner succeeds, the Nixon administration will be prevented from setting a new course for the Commission and rectifying the mistakes of the past.

The time has come to reiterate the goals of the Hoover Commission plan and enforce the clear intent of Congress.

Shortly, the President will have an opportunity to appoint a new Chairman. I have every confidence that, if the appointee is an aggressive person experienced in the affairs of the Commission, and if the Dixon plan to perpetuate present staff in office is successfully aborted, this bipartisan agency will again resume its important and constructive role in our Nation's economy.

"THE CORRUPT JUDGE"— A CALL FOR JUDICIAL REFORM

Mr. TYDINGS. Mr. President, 7 years ago, when Joseph Borkin published "The Corrupt Judge," his voice was a voice in the wilderness. Long before the public clamor for reform, Mr. Borkin, in "The Corrupt Judge," traced the history of misconduct in the Federal judiciary and documented the inadequacy of existing procedures to deal with such misconduct. Finally, in a display of great insight, Mr. Borkin called upon the judiciary to impose upon itself the requirement of financial disclosure, a requirement recently adopted for the lower Federal courts by the Judicial Conference of the United States.

Mr. Borkin is an unusually effective writer. Senator MAGNUSON recently called his latest book, "Robert R. Young—The Populist of Wall Street," "one of the more important contributions to American business history." I consider it to be a remarkably readable and potent book. So too is "The Corrupt Judge."

"The Corrupt Judge" helped inspire Senator Kefauver to introduce, in 1962, a bill which would have made Mr. Borkin's financial disclosure proposal a matter of law. It also helped inspire the Subcommittee on Improvements in Judicial Machinery to undertake the study of judicial fitness that it began in 1965 and that culminated in the introduction of the Judicial Reform Act in 1968 and again this year. Indeed, as a witness and as an author Mr. Borkin has contributed much to our continuing study of the problems caused by unfit Federal judges.

"The Corrupt Judge" was recently syndicated in abridged form by the North American Newspaper Alliance. In my opinion, it should be required reading for all those who are interested in preserving the strength of the Federal judiciary.

I ask that the abridged version of "The Corrupt Judge" be printed at this point in the RECORD.

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

THE CORRUPT JUDGE

DISHONEST JURISTS SUFFER FROM AJAX COMPLEX

The attainment of justice is the purpose to which the entire intricate structure of jurisprudence is dedicated. Within this edifice sits a focal figure in whom is crystalized the essence of law and equity—the judge.

Society has elevated the judge to a carefully-protected eminence and has provided him with flowing black robes and ceremonial architecture, thus underscoring his exalted station. The epitome of honor among men, he is assigned a sacrosanct trust.

This helps explain why the United States, together with England, has the smallest incidence of judicial corruption in the world.

What rational motive, then, can be given for those few judges who have sold their honor and their decision?

Inexplicable as the reason may be, the corrupt judge moves like the figure in a Greek tragedy, inexorably along the way to self-destruction. Like the mythical Ajax, he seems compelled to tempt the gods to destroy him, and each suceeding corruption is greater than the one before.

There is no discernible type of corrupt judge. A study of at least 32 federal judges against whom there has been a considerable body of adverse evidence indicates that they were recruited from the most diverse of environments, varying from theological seminaries to Tammany clubhouses, and included among them honor graduates, professors and trustees of universities as well as alcoholics and mental deviates, corrupt politicians and associates of gangsters.

Not only did some of these judges permit themselves to be demeaned by the most eminent members of the bar and respected corporate executives, but they entered into the basest of arrangements with known criminals and notorious fixers.

Relatives, such as sons, daughters and in-laws, were frequently part of the apparatus of the venal judge. Tribute was collected from court-appointed fiduciaries. Unsecured loans were exacted from litigants.

Some judges engaged in joint enterprises with lawyers who appeared before them and even shared fees with their former law partners. Decisions were sold for cash, for forbidden favors, and for business opportunities.

Shakedowns of the corruptors by some of the crooked judges were part of the performance, as was the blackmailing of the judge himself by the corruptors. Payments were made in back alleys and the inner sanctum of the judicial chamber.

Neither the law nor honor were restraints, except that often the bribes and kickbacks were computed with adequate reserves for tax purposes—providing a rare tribute from experts to the quality of income tax enforcement.

One clearcut conclusion emerges from the study of judicial corruption: There is a direct relationship between unsettled business conditions, particularly severe downturns in the market place and the incidence of judicial misbehavior. A judge whose side entrance into the business world may have begun with a reasonable investment in real estate and the stock market propelled by greed, to be caught in the "maelstrom of business disaster."

The demands by creditors and failing enterprises make the judge a easy mark.

A judge cannot be corrupt alone. As a rule, the corruptors fared better than the corrupted judge. This is true in material reward, in the public's attitude or lack of it, and in the failure of public authorities to punish and professional societies to discipline.

Once a judge's corruption is revealed, he is rarely permitted to continue his honored role. For the corruptors there seems to be a laxer standard, enabling a number to retain their professional, economic, or political status.

There is one absolute standard, one implacable test which society applies to a judge—unswerving honesty. For a judge to deviate from the most rigid honesty and impartiality is to betray the integrity of all law.

No legal relativity can condone such betrayal. From the standpoint of justice, the size of the bribe or scope of corruption cannot be the scale for measuring a judge's dishonor. A single dishonest judge not only dishonors himself and disgraces his office, but jeopardizes the integrity of the entire judicial process.

From the beginning of Anglo-Saxon law, the conduct of judges has followed well-understood rules. In the United States, these standards were formalized in the Canons of Judicial Ethics in 1924, by a committee of the American Bar Association.

* * * * *

These canons, a judge may not accept from a lawyer an inadequately secured loan. He may not appear on a commercially-sponsored radio program on which legal advice is given, nor may he conduct a newspaper column. He may not accept presents or favors from a lawyer, litigant, or a friend of a lawyer or litigant. He may not be the director of a bank. He may not sit on a case involving a near relative.

In essence, the canons thus impose upon the judge himself the responsibility of avoiding any conflict between self-interest and the rendering of judgment.

The extent to which the American Bar feels this is expressed in Canon R, the "Caesar's Wife" doctrine:

"A judge's official conduct should be free from impropriety and the appearance of impropriety; he should avoid infractions of law; and his personal behavior, not only upon the Bench and in the performance of judicial duties but also in his everyday life, should be beyond reproach.

As part of the ancient precedents introducing the Canons of Judicial Ethics are the immortal words of Sir Francis Bacon, the Lord Chancellor, carved in marble over the Department of Justice Building, as well as court houses all over the world.

"The place of justice is a hallowed place, and therefore not only the bench, but the foot pace and precincts and purprise thereof, ought to be preserved without scandal and corruption."

How many know, even today, that the author of these lines was a corrupt judge whose public career was terminated by "disbarment," imprisonment and a monumental fine? In Bacon's case, it would seem that, unlike Caesar, "the good that men do lives after them, but evil is oft interred with their bones."

In the U.S., only three federal judges have ever been criminally charged with corruption in a formal indictment:

(1) Martin T. Manton, judge of the Second Circuit Court of Appeals, in 1939.

(2) J. Warren Davis, judge of the Third Circuit Court of Appeals, in 1941.

(3) Albert W. Johnson, judge of the district court, Middle District of Pennsylvania, in 1945.

Their judicial history, part of which follows in succeeding articles, runs the catalogue of venality and corruption.

II. CRIMES OF "MODEL JURIST" SHOCKED NATION IN THIRTIES

Judge Martin T. Manton, senior judge of the U.S. Second Circuit Court of Appeals, by 1939 had reached a position of such eminence and respectability that he was regarded as the 10th-ranking justice of the United States, just below the nine justices of the Supreme Court.

In fact, he was a likely choice to succeed his fellow Catholic Justice Pierce Butler when the latter died or retired—although there were rumors that some of Manton's colleagues on the Circuit Court bench had complained about his questionable character to President Franklin Roosevelt in order to forestall such an appointment. But to the nation at large, he was a distinct judicial personage.

One can imagine, then, the shock registered by the Congress and the public when, in an open letter to the Judiciary Committee of the House of Representatives, a young district attorney, Thomas E. Dewey, charged Judge Manton with judicial corruption on an unprecedented scale. He stated that Manton had employed fixers, approached litigants for loans, engaged in corrupt bankruptcy practices and performed a host of im-

proper activities tantamount to the sale of his judicial office.

The day after the story appeared, Judge Manton announced that he would issue a statement that would "satisfy the public that there is nothing wrong or immoral" about his judicial conduct.

Asked by reporters whether, in his opinion, there was anything wrong or immoral about a judge having business interests outside his judicial duties, Judge Manton replied, "I never thought it was wrong or immoral. I know that other judges have such interests."

However, instead of issuing a statement "that would satisfy the public," Judge Manton tendered his resignation to President Roosevelt, who promptly accepted it.

The resignation, Manton declared, was dictated solely by his desire to avoid becoming the central figure in a controversy that would weaken public confidence in the general administration of justice. He defended his business activities, denying that any of them "bore the slightest relation to my conduct as a judge or to any litigation in my court."

The acceptance of Manton's resignation under fire was to be expected. Traditionally, this had been the practice in the case of a corrupt judge who was exposed. Congress did not relish the task of impeachment and even considered it unnecessary when a judge conveniently resigned.

District Attorney Dewey, however, would not let the matter end on such a note.

He made it clear that if the federal government would not act under federal criminal statutes, he would proceed under state law.

With the implacable Dewey in the background, a criminal investigation of Manton was begun by the U.S. attorney, and an indictment was returned. The legend of the inviolability of the modern federal judiciary was about to receive a severe jolt.

The trial of Judge Manton, charged with obstructing justice and intent to defraud the United States, began on May 22, 1939, to huge crowds and flaming headlines. Few trials in the history of New York have evoked such interest.

An eminent array of character witnesses appeared at the trial on Manton's behalf, including two former candidates for President of the United States, John W. Davis and Alfred E. Smith.

Perhaps even more effective was the appearance as defense witnesses of all four of Manton's colleagues on the Circuit Court bench: Judges Harrie B. Chase, Augustus N. Hand, Learned B. Hand, and Thomas W. Swan. Manton obviously had been a consummate actor, for his demeanor in the inner sanctum of the judicial conference room—as well as in public view on the bench—appeared to have given them no indication of his corruption.

As the trial developed Manton's image emerged as an active businessman and real estate operator.

He owned a paper products company, a carpet-cleaning establishment, a laundry concern, two large hotels, eight apartment houses, 14 two-family houses and over 200 acres of undeveloped land.

With the 1929 crash, his corporate empire began to crumble. This fact was not generally known. At the same time that the New York Times was suggesting editorially in 1931 that judges be kept out of business, it reported that Judge Manton was probably the richest federal judge in the United States.

By 1934, Manton's properties, heavily mortgaged at pre-depression prices, were either undergoing foreclosure or were on the brink of it. Moreover, he was $730,000 in debt, a hopeless bankrupt.

Between June, 1934, and May, 1935, he made a remarkable recovery, moving from a net debt position of $730,000 to a net worth of $750,000—an unusual happenstance for a federal circuit judge.

Manton claimed this financial recovery was due to a series of "loans," advance payments on contracts, and sales of stock.

Of this income, $184,000 had been paid to him in cash.

Prosecuting Attorney John T. Cahill skillfully presented the government's case, contending that Manton's sudden prosperity was due in large part to bribes and loans from parties having litigation in the courts over which he presided.

The weight of the evidence was overwhelming. Several who had been involved in bribes testified for the government. Recordak copies made by banks of bribes paid by check to Manton were introduced into evidence, as well as a photostatic copy of a note which an untrusting briber had demanded of Manton as promise of performance, in exchange for the advance payment of a bribe.

A number of bizarre details came to light during the trial.

The briber in one case engaged two different fixers to purchase Manton's decision. Apparently neither knew of the other's efforts until Manton's trial.

In another case, the briber received a refund from Manton when, unable to persuade either of the other two circuit judges to render a favorable ruling, he joined them in an adverse ruling. The briber, armed with evidence of the bribe, then blackmailed Manton into writing a letter to the Department of Justice expressing doubts of the defendant's guilt. But the department was not taken in.

Sometimes, it is interesting to note, the briber held back adequate reserves to pay the federal income tax on the bribe.

At the conclusion of the Manton trial, the presiding judge said in his charge to the jury:

"The charge of conspiracy to sell justice, made against an appellant federal judge, is hitherto unprecedented in the 150 years of the federal judiciary."

The jury deliberated only four hours before returning a verdict of guilty. Manton was sentenced to two years' imprisonment with a fine of $10,000—the only federal judge to be so punished.

On his appeal of the verdict to the Supreme Court, Manton's brief contained an extraordinary plea:

"From a broad viewpoint, it serves no public policy for a high judicial officer to be convicted of a judicial crime. It tends to destroy the confidence of the people in the courts."

The Supreme Court was unimpressed. The conviction was sustained.

III. JUDGE J. WARREN DAVIS WAS "GIFTED PSYCHOPATH"

No judge ever betrayed so fully his early promise as J. Warren Davis of the Third Circuit Court of Appeals. He distinguished himself quite unenviably as the second senior judge of a federal circuit to be indicted as a corrupt judge.

Davis received a B.A. degree from Bucknell and a divinity degree from Crozer Theological Seminary, where his scholarship was rewarded with an invitation to remain and teach Sanskrit, Greek and classical Hebrew. He added to his learning by sojourns at the University of Chicago and the University of Leipzig.

At the conclusion of his teaching career, he entered the ministry and held a pastorate at the Baptist Church in Pedricktown, N.J.

But, as an eminent psychiatrist was later to observe, Davis was "A gifted psychopath." Behaving in a way reminiscent of Aldous Huxley's father Grandier and Sinclair Lewis' Elmer Gantry, Davis seduced and impregnated the young daughter of a member of his congregation and was driven in disgrace from his pastorate.

He then turned to the law, graduating from the University of Pennsylvania in 1906. In time, the reform politics of Woodrow Wilson beckoned. When Wilson became President, he appointed Davis U.S. attorney for New Jersey and in 1920 elevated him to the Third Circuit Court of Appeals.

After Davis assumed his judgeship, it became known to a select group, stockbrokers, bankers, and their lawyers, that Davis was a stock market addict, speculating far beyond his capacity.

When the crash of 1929 arrived, so did the day of reckoning. Davis was left hopelessly insolvent. His only unpledged asset was his honor. Now he decided to mortgage that.

Another victim of the 1929 crash, William Fox, the movie magnate, was undergoing the discomfort of bankruptcy in the U.S. District Court for New Jersey. He found Judge Davis a willing collaborator.

The judge, to finance the wedding of his daughter, "borrowed" $15,000 in $50 and $100 bills from Fox. Still desperate, Davis needed $12,500 more. Anxious for the cash, Davis met Fox on the corner of Twelfth and Chestnut streets in Philadelphia. The two men withdrew into a hallway and Fox handed the judge a newspaper containing 12 $1,000 bills and five $100 bills. What a scene these two men acted out in the shadows, the erstwhile millionaire film tycoon and the federal circuit court judge, as they transacted their strange business.

A change in Fox's fortunes was now visible. From 1936 to 1938, the court of which Davis was a member held for Fox five times. Davis was able to influence another senile and practically deaf and blind judge to sign the corrupt opinions which Davis had written and sold.

Fortunately for the public, the Supreme Court just as consistently reversed, denying Fox the fruits of his corruption.

Evidence collected in the Manton investigation began to point to Davis and to some of his corruptors, particularly Fox. In addition, some of Davis' colleagues began prodding the Department of Justice to act.

In an attempt to forestall action, Davis retired on April 5, 1939, with full salary and pension rights. It was no secret, however, that Davis was still under official scrutiny.

Newspaper stories about Davis began to appear at the end of 1939, and Davis and his corruptors now knew specifically that they were suspect. Davis was disturbed when he learned that the serial numbers of five of the $1,000 bills given to him by Fox had been recorded by the bank in which they were deposited.

Davis was anxious to find out where Fox secured the money and to reconstruct a believable story for the grand jury which was now investigating. For this purpose, he visited Fox in New York twice, registering at the hotel one time as "Herman Goldberg" and at another time as "Mr. Moon."

Fox, however, reluctant to get involved any further, fully confessed to the U.S. attorney. As a result, Davis and Fox, among others, were indicted by a federal grand jury in Philadelphia.

At the trial, Fox pleaded guilty. Davis went through the ordeal of two trials. In each one, the jury was unable to agree and the indictment was ultimately dismissed.

On Nov. 8, 1941, Attorney General Biddle requested Congress to impeach Judge Davis. Davis blocked this move by a full resignation, waiving pension and retirement rights.

He died in Norfolk, Va., his boyhood home, on Feb. 2, 1945.

IV. ALBERT JOHNSON: HIS CLERKS BECAME HIS PERSONAL SERVANTS

Judge Albert W. Johnson of the U.S. District Court for the Middle District of Pennsylvania by his mere survival as a federal image for 20 years (from 1925 to 1945) stands as a monument to a legal tradition—the morbid reluctance to expose a corrupt and venal judge.

How and why President Calvin Coolidge appointed Johnson a federal judge should be the subject of a clinical study by the

organized bar. It occurred over the objection of the bar and even the press of the district Johnson emerged from the depths of corrupt politics, and his character defects were both formidable and notorious.

Once on the bench, Johnson's behavior matched the direst predictions. Bankruptcy proceedings before his court were an open disgrace. Between 1925 and 1945, there were inquiries by the Judiciary Committee of the House of Representatives, investigations by the Department of Justice, complaints from his fellow judges, and charges by litigants. But they had no effect.

Finally in 1945, Max Goldschein, a special assistant to the attorney general, conducting a war frauds case before Johnson, decided to act. Supported by Attorney General Tom C. Clark, Goldschein convened a grand jury.

This was a most unusual investigation. The lawyers who practiced across the 400-mile breadth of the Middle District spoke of corruption but now "couldn't remember" or "could not find the records." There was nothing to go on but rumors.

According to these, whenever a case came into Johnson's court in which it was possible to arrange a "fix," one of the judge's sons was employed. But the sons, although lawyers, never appeared on record.

As Lester Velie, writing in Collier's Magazine, once said, "when Goldschein batters at the walls of a corrupted town, something must give." On April 21, 1945, the indictment began to come down. They involved mainly nine cases of corruption of Judge Johnson, of which seven concerned bankruptcy proceedings and two criminal actions.

Despite the indictment, Johnson refused to resign, not unlike the first reaction of Manton and Davis. Since the only way a federal judge can be removed is impeachment, Goldschein was appointed counsel to the Judiciary Committee of the House of Representatives by the then Congressman Estes Kefauver, with the view to an impeachment proceeding.

Among the matters Goldschein uncovered, in addition to Judge Johnson's active life as a real estate operator and private businessman, was an extraordinary arrangement concerning the Tea Springs Lodge, since 1931 a matter of dismay to lawyers practicing in the Middle District.

Ostensibly operated as a club, the Tea Springs Lodge seemed to be used exclusively by the judge and his sons. It had 74 members, who had each paid the $500 initiation fee plus dues. They got their money's worth, however—51 of them were appointees of Johnson as appraisers, trustees and attorneys for trustees and received fees totaling $265,648.

Probably even more extraordinary was a huge bribe of $250,000—none of which found its way to Johnson. The middleman, after receiving the bribe to pass on to Johnson, began to play cat and mouse with the judge. He announced that the bribe was to be $150,000 instead of the $250,000 he had already received.

Once with a discussion with the venal judge, the intermediary declared that it was his understanding that the split was to be 50–50. Johnson replied that it was to be 75–25, in the judge's favor. It was compromised at 66⅔–33⅓.

But the fixer solved the problem his own way—he kept all of it. One can only imagine Judge Johnson's emotions when he learned from Goldschein's investigation that the bribe was $250,000 and had long since been paid to the crooked middleman.

When it was apparent that an impeachment was a certainty, Judge Johnson resigned, waiving all rights, and the House of Representatives reluctantly dropped the matter—but not until it put the following revealing paragraph in its report:

"So far has this man gone in his loss of respect for himself and for the proprieties of his office that he even used his power of appointment of his official secretary and the deputized clerks of the United States District Court through the clerk to browbeat these federal employes, by compelling them to rent apartments in the buildings he owned at higher rentals than other tenants were paying him for similar apartments, and more than they thought they could afford to or wanted to pay.

"He raised their rent whenever the government raised their pay.

"He subjugated them to his own will and compelled them, throughout his tenure of office, to do the menial work of servants in his home, dusting, cleaning, and even washing his floors. This was done during their regular working hours as well as after."

Judge Johnson was subsequently tried on the criminal indictment. He was acquitted when two fixers, key witnesses against him, refused to repeat their grand jury testimony. But, by some poetic injustice, the fixers themselves were convicted and sentenced to the penitentiary.

Judge Johnson then entered the private practice of law, and one of the local bar associations elected him as their president.

V. REMOVAL

Why is their such a reluctance to expose a corrupt judge?

The problem is set forth with clarity by Henry S. Drinker, at the time Chairman of the Committee on Grievances of the American Bar Association.

"The difficulty in inducing a member of the bar to attack a corrupt judge lies in his natural fear of reprisals in case through influence, political or otherwise, the lawyer's efforts prove unsuccessful. As Emerson said to Justice Holmes, '. . . If you shoot at a king, you must kill him.' "

The lawyer engaged in private practice, however is not alone in this reluctance, for to remove a Federal judge is a formidable task.

A Federal judge may suddenly become afflicted with a helpless insanity or blindness, deafness, or senility; he may be convicted of murder, arson, or burglary; he may rend assunder the Canons of Judicial Ethics; or he may even be guilty of selling his justice. Despite all this he may be removed only by the process of impeachment.

By this method the House of Representatives prefers charges called an Impeachment. Upon these charges the entire Senate holds a trial where a "concurrance of two-thirds of the members present" is required to convict. Short of death or resignation, this is the only way to remove a Federal judge.

Impeachment is a costly, complicated, and cumbersome removal process, initiated rarely and then only with the greatest of reluctance. Much more effective has been its utilization as a potential weapon of exposure and disgrace, for in the most flagrant cases of judicial corruption on the Federal bench, misbehaving judges have, more often than not, chosen to resign rather than face the ordeal of impeachment. In the main, however, an examination of the evidence in the history of impeachment of judges would indicate its failure. It has protected neither the public interest nor the rights of the accused. It appears to be an anachronism that has long since lost its proper function.

In modern times the United States Senate has been called upon to legislate and examine the most important and complex of national and international relations, and its important duties seem to be without end. The impeachment proceedings which have actually taken place have stopped or delayed other business, so that the Senate could sit as a court and consider the removal of a Federal judge. Each Senator, to have fulfilled his function properly as a judge and juror in each case, would have been compelled, to hear as much as twenty days of testimony, to read over seven or eight hundred pages of the record, and to review many more thousands of pages of exhibits. This he would have had to do in addition to attending to legislative duties and the needs of constituents. Obviously, few if any Senators could perform all these duties conscientiously.

A criminal trial, according to the principles of Anglo-Saxon justice, demands that the judge, the jury, and the defendant be present at all stages of the trial. It requires that the judge and jury view all the evidence and hear all the witnesses in order to weigh the delicate question of truth and falsity of testimony. Consider what violence is done to this precept in an impeachment trial. Although a hundred Senators may vote and judge conviction or acquittal on an impeachment, the average attendance, experts have noted, has been fifteen. Once a House Manager was to observe there were only three Senators present and one of these was using the time to write letters, paying no attention to the proceedings. Impeachment trials have averaged from sixteen to seventeen days, and the case of Judge Archbald ran for six weeks—eloquent explanation why only eight judges have been impeached in the history of the United States. From the point of view of time consumed, an impeachment is a major Congressional event. The feeling cannot be escaped that Congress is sometimes willing to suffer a misbehaving judge rather than stop the legislative activities of the United States.

With a sort of perverse justice, the disgrace of impeachment during this century has been attached to four judges whose judicial actions were far less culpable than others whose judicial crimes were greater and whose guilt was clearer. But in those cases where there were strong indications of criminal activity or misbehavior, almost inevitably the offending judge resigned and the impeachment proceedings were dropped. Whenever testimony and evidence are not conclusive; whenever malice and the probity of witnesses are difficult to distinguish; whenever evil intent and poor judgment cannot be separated—here a hapless judge may elect to fight the issue through and stand trial before the Senate. As a result, the evidence points to the inescapable conclusion that an impeachment trial as a practical and historical matter has been reserved for the less flagrant cases of judicial abuse.

Altogether eight Federal judges have been impeached.

1. John Pickering, Judge of the District Court of New Hampshire, charged (1804) with drunkenness, tyrannous conduct and disregard for the terms of statutes. Convicted.

2. Samuel Chase, Associate Justice of the U.S. Supreme Court, charged (1805) with intemperate, arbitrary, and unjudicial conduct in sedition-law trials. Acquitted.

3. James H. Peck, Judge of the U.S. for the District of Missouri, charged (1830) with tyrannous treatment of counsel and arbitrary conduct. Acquitted.

4. West H. Humphreys, Judge of the District Court of the U.S. for the eastern, middle, and western districts of Tennessee, charged (1862) with supporting the secession movement. Convicted.

5. Charles H. Swayne, Judge of the Northern District of Florida, charged (1905) with falsifying expense accounts, nonresidence and use of a private car belonging to a railroad in receivership. Acquitted.

6. Robert W. Archbald, Judge of the U.S. Commerce Court, charged (1913) with using his official position for private gain and accepting loans for litigants. Convicted.

7. Harold Louderback, Judge of the Northern District of California charged (1932) with favoritism in the appointment of receivers. Acquitted.

8. Halsted L. Ritter, Judge of the Southern District of Florida, charged (1936) with

bankruptcy irregularities and income tax evasion. Convicted.

Congress has been continuously troubled by deficiencies of the impeachment process. From 1800 to the present Congress, bills have been constantly introduced attempting to remedy the difficulties. Now events have conspired to bring the reform movement back to life. It is apparent that this Congress will give it serious attention.

VI. LET THE SUPREME COURT DECIDE PROPRIETY OF JUDGES' OUTSIDE INTERESTS

One clear-cut conclusion emerges from the study of judicial misconduct of Judges Manton, Davis and Johnson.

Unsettled economic conditions, particularly those associated with a depression, coupled with a deteriorating state of a judge's financial condition, produce a climate in which judicial corruption can flourish.

But the corruption involved did not arrive in full bloom. Instead, it had a discernible evolution. What began as modest private investment and reasonable speculation in securities and real estate, grew to such proportions that they not only challenged the Canons of Judicial Ethics, but led ultimately to fiscal disaster.

The pressure of creditors, plus attempts to recoup, led to ever deeper involvement, to bolder forays into the business arena, until even the semblance of propriety disappeared.

Desperation became a colleague. Not only were these judges easy marks for corruptors, but they themselves were driven to place their judicial function on the market—to go on the prowl, as it were—for susceptible litigants and lawyers.

A judge certainly should have the right to invest and manage his assets, for mere business activity itself is not inherently objectionable. It should, however, take place in a manner consistent with the obligations of a judge. As the record of this series indicates, such activity was not always in accord with the integrity of the judicial process. The question arises as to who shall make the determination.

For the federal judiciary, at least, who is more able to make this judgment than the members of the Supreme Court?

But at present, this body is unable properly to make such a judgment, since it is not in possession of the necessary facts. The suggestion is proposed, therefore, that the Supreme Court, under its rule-making power, require statements not only from all circuit and district court judges but from its own nine members regarding their extrajudicial business activities.

These reports, of course, should remain confidential, available only to the court and a special master, to be appointed with the power to call for further data if necessary. But only the court shall act on the special master's report.

Knowledge that such information is in the hands of the supreme court would tend to resolve doubts—and doubt is an eroding element in any judicial process. Lawyers, litigants, colleagues, and the public generally could rest more securely, confident that a judge's private business activity is within the bounds of propriety and legality.

The proposal for self-regulation has an apparent flaw. Suppose a judge refuses—defies, so to speak—the power of the Supreme Court to require such financial reports. Since removal can take place only through the impeachment process, the Supreme Court would not have this ultimate power to enforce its rule.

But this is a difficulty not as serious as it appears. The prestige of the court and the sanctions available to it are such that a judge engaged in defiance would be in an unenviable position. Not the least of these would result from the interest of the judiciary committee of the House of Representatives.

An examination in one district alone indicates that in recent years several federal judges appear to have engaged in a lively business life.

We hasten to add that there are absolutely no facts which would indicate that any of these judges ever permitted their private business obligations to interfere with the integrity of the judicial process. As a matter of fact such activities were by no means covert or disguised. "Who's Who" various directories of directorships, and reports filed with governmental regulatory agencies open to the public all contained the relevant information.

From these public sources it can be learned that one judge was vice president, director, and half-owner of a food company; another was a director of a building materials company; still another sat as a trustee of a bank and as a director of an insurance company. During the latter judge's 13 years as a director, he received fees in excess of $100,000; in fact, one year he received more as a director than he did as a federal judge.

How much better it would be for the maintenance of public confidence in the judicial process if the public could be assured that these matters were within the knowledge of the Supreme Court.

Judicial responsibility for judicial conduct is indeed a modest proposal.

In his review of my book, "The Corrupt Judge," in the Sunday New York Times of Dec. 9, 1962, Sen. Estes Kefauver said that he would introduce a bill making my proposal a matter of law rather than leaving it to the discretion of the Supreme Court. He thereupon asked me to draft such a bill, which became S. 1613.

Unfortunately, Sen. Kefauver died before he could put the weight of his great personality and reputation behind the legislation. As a result, the bill never emerged from committee.

Recently, Sen. Joseph Tydings, D-Maryland, has taken up the cause and has introduced a long-needed comprehensive bill of judicial reform, S. 1506, including a section requiring financial disclosure by federal judges. He introduced this bill for himself and for Sens. Thomas F. Eagleton, D-Missouri, Charles E. Goodell, R.-New York, Mark O. Hatfield, R-Oregon, Warren G. Magnuson, D-Washington, Walter F. Mondale, D-Minnesota, Edmund S. Muskie, D-Maine, Hugh Scott, R-Pennsylvania, and Ralph W. Yarborough, D-Texas, and Edward M. Kennedy, D-Massachusetts.

Sen. Tydings' proposed legislation is a carefully reasoned and effective attack on the problem of judicial ills. In view of recent events, for the first time such reform legislation has an excellent chance of becoming law. It is to be hoped that Sen. Tydings and his colleagues will be successful in securing passage of the Judicial Reform Act.

TREATY COMMITMENTS OF THE UNITED STATES

Mr. SYMINGTON. Mr. President, as the Senate knows, on February 3, 1969, I was appointed chairman of the Subcommittee on U.S. Security Agreements and Commitments Abroad of the Senate Foreign Relations Committee. Since then, through many discussions here in Washington as well as extensive travel, the subcommittee and its staff have been working to obtain all pertinent information incident to these commitments and agreements prior to hearings and a subsequent report.

In the meantime, the subcommittee counsel, Mr. Roland Paul, has drawn up a brief analysis of the eight mutual security treaties under which the foreign policy of this Nation is currently operating; and also a summary of the five congressional resolutions which, in effect, create additional commitments.

I place this analysis and this summary in the RECORD, not only because I believe the Senate will be interested in the nature and degree of said commitments, but also because the excellent packaged manner in which this information is presented by Mr. Paul presages additional constructive effort as the subcommittee staff proceeds with its work.

I ask unanimous consent that these two memorandums—that with respect to treaty commitments and that with respect to resolutions—be printed in the RECORD.

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

U.S. TREATY COMMITMENTS

EIGHT SECURITY TREATIES

The United States has eight mutual security treaties with forty-two other countries, plus South Vietnam as a protocol, nonsignatory country under SEATO. These treaties and their parties are as follows:

1. Inter-American Treaty of Reciprocal Assistance, signed September 2, 1947, effective December 3, 1948, and the related Charter of the Organization of American States, signed April 30, 1948, effective December 13, 1951:

Argentina	Haiti
Bolivia	Honduras
Brazil	Mexico
Chile	Nicaragua
Colombia	Panama
Costa Rica	Paraguay
Dominican Republic	Peru
Ecuador	Trinidad and Tobago
El Salvador	Uruguay
Guatemala	Venezuela

2. North Atlantic Treaty, signed April 4, 1949, effective August 24, 1949:

Belgium	Italy
Canada	Luxembourg
Denmark	Netherlands
Federal Republic of Germany	Norway
France	Portugal
Greece	Turkey
Iceland	United Kingdom

3. Mutual Defense Treaty between the United States of America and the Republic of the Philippines, signed August 30, 1951, effective August 27, 1952.

4. Security Treaty between Australia, New Zealand, and the United States of America, signed September 1, 1951, effective April 29, 1952.

5. Treaty of Mutual Cooperation and Security between the United States of America and Japan, signed January 19, 1960, effective June 23, 1960.

6. Mutual Defense Treaty between the United States of America and the Republic of Korea, signed October 1, 1953, effective November 17, 1954.

7. Southeast Asia Collective Defense Treaty, signed September 8, 1954, effective February 19, 1955:

Australia (also under ANZUS).
France (also under NATO).
New Zealand (also under ANZUS).
Pakistan.
Philippines (also under a bilateral treaty).
Thailand.
United Kingdom (also under NATO).

(The free territory under the jurisdiction of the State of Vietnam, i.e., South Vietnam, is covered by the security guarantee of SEATO as a protocol country.)

8. Mutual Defense Treaty between the United States of America and the Republic of China, signed December 2, 1954, effective March 3, 1955.

ARMED ATTACK

With respect to an armed attack, the language used in these treaties falls into two categories. The North Atlantic Treaty provides that—

"An armed attack against one or more of [the Parties] in Europe or North America shall be considered an attack against them all; and consequently they agree that, if such an armed attack occurs, each of them . . . will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area."

Article 3 of the Inter-American Treaty of Reciprocal Assistance (the Rio Treaty), in slightly different language, is to the same effect with respect to an armed attack in the Western Hemisphere.

The later six security treaties provide, in almost identical language, that "aggression by means of armed attack in the treaty area against any of the Parties would endanger [each Party's] own peace and safety, and [each Party] agrees that it will in that event act to meet the common danger in accordance with its constitutional process."

In analyzing both sets of treaties, the essential factors for determination are, first, what constitutes an "armed attack" and, second, the level of response required in the event of such an attack. In most cases whether an armed attack has occurred or not is quite evident.[1] Certain cases where such may not be self-evident are discussed below.

The question to which the answer is generally more ambiguous is the magnitude of action called for by the treaty once an armed attack has occurred. This ambiguity stems from at least three factors. First, the language in all the treaties is rather imprecise in defining this feature of the obligation: "to assist in meeting the attack" in the Rio Treaty, "necessary . . . to restore and maintain the security of the North Atlantic area" in the North Atlantic Treaty, and "to meet the common danger" in the remaining six treaties. Second, the first two treaties explicitly, and the other six implicitly,[2] leave it up to each country to determine the steps it will take to counter the attack. Third, the internal decision in each country is subject to the constitutional processes of that country, including in the case of the United States the Congressional prerogative to declare war or not.

The language of the respective treaties could be parsed and compared to discover nuances of difference as to the level of action seemingly called for by each treaty, but this precision would be illusory. As a practical matter, the action required by every one of these treaties, being agreements among sovereign nations, will be determined by the principles referred to below and not by slightly varying phraseology. In fact, the difference in language between the two sets of treaties only occurred because of a desire by Secretary Dulles to make it clearer in the subsequent treaties that Congress was retaining its Constitutional right to declare war. As he stated before the Senate Committee on Foreign Relations:

"It seemed to me that the practical difference between the two from the standpoint of its giving security to the other parties was not appreciable. . . .

"I think that the difference practically is not great, but that the present formula does avoid at least a theoretical dispute as to the relative powers of the President and the Congress under these different formulas. . . .

"In a sense, it is perhaps not quite as automatic as the other, but that would depend on circumstances."[3]

Footnotes at end of article.

INTERNAL SUBVERSION

In two of the treaties, the Rio Treaty and the SEATO Treaty, there is positive language with respect to the possibility of an internal insurgency. These treaties announce in slightly varying language that—

"If . . . the inviolability or the integrity of the territory or sovereignty or political independence of any Party . . . is threatened in any way other than by armed attack or is affected or threatened by any other fact or situation that might endanger the peace of the area, the Parties shall consult immediately in order to agree on the measures which should be taken for the common defense."

Thus, the only obligation with respect to such an insurgency is consultation.[4] The other treaties do not deal with the situation of a strictly internal insurgency by affirmative language, but the result would be the same because such an occurrence would not come within the meaning of the term "armed attack."[5]

PRINCIPLES OF INTERPRETATION

Treaties among sovereign nations cannot be interpreted in the same light as contracts between individuals or companies for the simple reason that each nation is its own ultimate authority as to the interpretation of the obligations which it has entered into by a particular international agreement. Accordingly, the interpretation of a treaty entered into by the United States will be substantially affected by two underlying factors: First, the best interests of the United States, as perceived by its Government and, second, the sentiment within the American tradition to do "the right thing" based upon a notion of "fair play." This means that ambiguities in the language of mutual security agreements will almost always be resolved in favor of the best interests of the country making the interpretation, since by hypothesis what the "right thing to do" is not clear. On the other hand, even if the best interests of the country were the only guiding principle for interpreting international treaties, this does not render mutual defense commitments useless exercises, for sometimes it is in a nation's best interest to fulfill the fair import of its written defense commitment so as to maintain the faith of other countries in its military promises.

With the foregoing concepts as background, the following conclusions may be drawn with respect to what these security treaties "require" the United States to do under various circumstances.

ALL-OUT COMMUNIST ATTACK

The North Atlantic Treaty would probably require the United States to employ large-scale combat forces to meet an all-out communist attack involving the Soviet Union against one or more of our NATO allies. In this case, all of the underlying principles for interpreting the treaty—clarity of language, credibility, fair play, and the overriding best interests of the United States—point to this conclusion. There is no doubt but that an "armed attack" has occurred and substantial forces are necessary to "restore and maintain the security" of the North Atlantic area.

A similar conclusion for similar reasons would probably follow in the event of an overt Red Chinese attack upon Japan under the language of the Japanese defense treaty, which recognizes that an armed attack upon Japan would be dangerous to the peace and safety of the United States, necessitating American action to meet the common danger.

The legislative history of the North Atlantic Treaty supports the foregoing conclusion with respect to that alliance. The Report of the Senate Committee on Foreign Relations states that "the course of action envisaged in the treaty is substantially that which the United States would follow without the treaty. . . ."[6] Secretary Acheson reiterated before the Senate Committee on Foreign Relations that the Treaty would require, in his opinion, substantial American combat forces to repel an all-out communist attack. For instance, he said:

"If we should be confronted again with an all-out armed attack such as has twice occurred in this century and caused world wars, I do not believe that any action other than the use of armed force could be effective. The decision, however, would naturally rest where the Constitution has placed it."[7]

On the other hand, nothing in the North Atlantic Treaty or in any of the other treaties requires the United States to undergo a high risk of nuclear attack upon itself in defense of any of its allies if it does not choose to do so. As mentioned above, none of the treaties specify the level of force which this country is required to provide in defense of its allies; each treaty leaves it up to the respective parties to determine the defense contribution which it will make. At such an apocalyptic level of national commitment, the "best interests" factor becomes virtually conclusive in interpreting the obligation.

Another instance in which the United States would not be required by its treaty obligation to use all of the force at its disposal, in this case even all of its conventional forces, is exemplified by a full-scale attack by North Vietnam on Thailand (after having overrun Laos), occurring at a time like the present when the sentiment in this country is strongly against becoming involved in another land war in Asia. Such a situation would evidently be an "armed attack" within the meaning of the SEATO Treaty, requiring the United States "to act to meet the common danger." Nevertheless, under its right to determine the level of its own response under the treaty and because of the ambiguous language in the treaty, the United States may choose, for instance, only to provide air cover to the Thai forces, or even less support, even though such assistance may prove to be inadequate to defeat the attack.

NON-COMMUNIST ATTACK

The SEATO Treaty specifically limits the United States' obligation (beyond mere consultation) to situations involving communist attack. The language of the other treaties does not distinguish between communist and non-communist attack. Indeed, Secretary Acheson implied before the Senate Committee on Foreign Relations that the North Atlantic Treaty could require collective resistance even against another NATO member.[8] Nevertheless, in the current world situation, it would seem evident that the United States would interpret its obligation to apply only to communist aggression. A few days ago before the Senate Committee on Foreign Relations, Under Secretary U. Alexis Johnson acknowledged this to be his understanding with respect to the North Atlantic Treaty. The agreement between the United States and Pakistan,[9] entered into as part of the United States participation in CENTO[10] commits the United States "in case of aggression against Pakistan . . . [to] take such appropriate action, including the use of armed forces, as may be mutually agreed upon . . . in order to assist the Government of Pakistan at its request."

There is no substantial reference in this agreement or in the CENTO agreement to indicate that such commitment is directed solely against communist attack. Nevertheless, the United States has consistently maintained such interpretation, including during hostilities between Pakistan and India.

LIMITED COMMUNIST ATTACK

There are numerous situations that can be imagined involving the movement of troops across borders short of all-out attack. They

could well be termed "armed attacks" but there would be considerable ambiguity as to the appropriate means which this country should take in its best interests to counter such attacks. The United States may, under the language of the treaties, conclude that all-out resistance is appropriate; on the other hand, it may choose a more limited response, either involving armed force or not. It can be fairly concluded that none of these treaties require the United States to engage in an all-out war to counter limited probes by communist forces. In situations such as these, the right of each country to determine the course of action that it will take becomes especially relevant.

Several comments in the legislative history of the North Atlantic Treaty are relevant to this point. The Senate Report on the treaty states:

"Depending upon the gravity of the attack, there are numerous measures short of the use of armed force which might be sufficient to deal with the situation. Such measures could involve anything from a diplomatic protest to the most severe forms of pressure.[11]

The Chairman of the Senate Committee on Foreign Relations echoed the same point in the course of the hearings:

"The CHAIRMAN. This clause about an armed attack on any one nation being regarded as an armed attack on all leaves each nation free, however, not to consider any armed resistance if it should see fit; is that not true?

"Secretary ACHESON. That is what I was spelling out for Senator Thomas.

"The CHAIRMAN. The measures they take, if any, would be wholly within the judgment of each particular country."[12]

Also significant for the meaning of the subsequent treaties which he was to negotiate was the testimony which Mr. Dulles gave on the North Atlantic Treaty:

"Obviously the treaty does not attempt, in my opinion, to prescribe any military plan of action. As I said, it would be folly if the treaty were interpreted as meaning that because a certain country attacks in a certain particular way we have to respond in that particular place and in that particular manner. There is a flexibility about our strategy, which the treaty fully preserves, in my opinion."[13]

INTERNAL SUBVERSION

An internal insurrection supported from out of country only by means of equipment and training would probably not be considered an "armed attack." One supported, however, by armed assistance, such as by the infiltration of "volunteers", especially if they were operating in regular army units, would create a more doubtful case under the language of the treaties. This point is reflected in the Senate Report on the North Atlantic Treaty:

"Obviously, purely internal disorders or revolutions would not be considered 'armed attacks' within the meaning of article 5. However, if a revolution were aided and abetted by an outside power such assistance might possibly be considered an armed attack."[14]

This ambiguity is further evidenced by the contradictory testimony of Secretary Acheson and General Bradley, then Army Chief of Staff; the Secretary of State tending toward the position that such an insurrection would be an "armed attack" and the General tending to reach the opposite conclusion.[15] The conclusion, then, is that the requirement of the treaty in such a highly ambiguous situation, both as to the characterization of the conflict and the response called for, is to be interpreted in light of the best interests of the United States. This would mean in many cases that the United States would not be required to send substantial numbers of combat forces.

COLLECTIVE OR BILATERAL ASSISTANCE

It has sometimes been suggested that, with respect to the multilateral agreements, the decision of a number of parties not to respond to an armed attack would excuse the other parties from responding. The Rio Treaty has detailed provisions for collective action through an Organ of Consultation. The language of the other treaties would not seem to require such a collective decision before action is required on the part of any particular signatory individually to assist in meeting the attack. Even the Rio Treaty provides for individual action pending the convening of the Organ of Consultation.

OTHER OBLIGATIONS

Each of the treaties also has provisions calling for the providing of military equipment and training to develop the defense capabilities of the treaty members, and for consultations among the respective parties in the event of threats to their security.

FOOTNOTES

[1] The Senate Committee on Foreign Relations acknowledged this point in its Report on the North Atlantic Treaty. S. Exec. Rept. 8, 81st Cong., 1st sess. p. 13 (1949). [Hereafter called the North Atlantic Treaty Report]

[2] See Hearings before Senate Committee on Foreign Relations on a Mutual Defense Treaty with Korea, 83d Cong., 2d sess., p. 8 (1954). [Hereafter called Korean Treaty Hearings]

[3] Hearings before the Senate Committee on Foreign Relations on the Southeast Asia Collective Defense Treaty, 83d Cong. 2d sess. Pt. I, pp. 21–22 (1954). See also Korean Treaty Hearings at p. 24.

[4] Under the Rio Treaty, by vote of two-thirds of the signatories, each country may be obligated to break diplomatic relations or take economic sanctions against a country supporting an insurgency, but not to use armed force without its consent.

[5] See Korean Treaty Hearings at p. 40.

[6] North Atlantic Treaty Report at p. 27.

[7] North Atlantic Treaty Hearings at p. 11. See also *id.* at pp. 28, 78–79.

[8] *Id.* at p. 29.

[9] Agreement of Cooperation between the Government of the United States of America and the Government of Pakistan, signed March 5, 1959.

[10] Pact of Mutual Co-Operation between Iraq and Turkey (Baghdad Pact), subsequently redesignated Central Treaty Organization, signed February 24, 1955, acceded to by Iran July 3, 1955, Pakistan September 23, 1955 and the United Kingdom April 5, 1955. United States participation effected by Declaration Respecting the Baghdad Pact Between the United States of America, Iran, Pakistan and Turkey, signed July 28, 1958, TIAS 4084.

[11] North Atlantic Treaty Report at p. 13.

[12] North Atlantic Treaty Hearings at p. 29.

[13] *Id.* at p. 347. See also *id.* at p. 363.

[14] North Atlantic Treaty Report at p. 13.

[15] North Atlantic Treaty Hearings at pp. 58–59, 310.

CONGRESSIONAL RESOLUTIONS

The five major Congressional resolutions in the nature of security commitments abroad read, in relevant part, as follows:

1. Formosa Resolution, H.J. Res. 159, 69 Stat. 5, approved January 29, 1955:

"*Resolved* . . . That the President of the United States be and he hereby is authorized to employ the Armed Forces of the United States as he deems necessary for the specific purpose of securing and protecting Formosa and the Pescadores against armed attack, this authority to include the securing and protection of such related positions and territories of that area now in friendly hands and the taking of such other measures as he judges to be required or appropriate in assuring the defense of Formosa and the Pescadores."

2. Middle East Resolution, as Amended, H.J. Res. 117, 71 Stat. 5, approved March 9, 1957, as amended by the Foreign Assistance Act of 1961, 75 Stat. 424, approved September 4, 1961:

"[T]he United States regards as vital to the national interest and world peace the preservation of the independence and integrity of the nations of the Middle East. To this end, if the President determines the necessity thereof, the United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism: *Provided*, That such employment shall be consonant with the treaty obligations of the United States and with the Constitution of the United States."

3. Cuban Resolution, S.J. Res. 230, 76 Stat. 697, approved October 3, 1962:

"*Resolved* . . . That the United States is determined—

"(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;

"(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

"(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination."

4. Berlin Resolution, H.C. Res. 570, 87th Congress, passed October 10, 1962:

"*Resolved* . . .

"(a) that the continued exercise of United States, British, and French rights in Berlin constitutes a fundamental political and moral determination;

"(b) that the United States would regard as intolerable any violation by the Soviet Union directly or through others of those rights in Berlin, including the right of ingres and egress;

"(c) that the United States is determined to prevent by whatever means may be necessary, including the use of arms, any violation of those rights by the Soviet Union directly or through others, and to fulfill our commitment to the people of Berlin with respect to their resolve for freedom."

5. Vietnam Resolution, H.J. Res. 1145, 78 Stat. 384, approved August 10, 1964:

"*Resolved* . . . That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

"SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

INCREASE SOCIAL SECURITY BENEFITS NOW

Mr. BYRD of West Virginia. Mr. President, back in April the President suggested that social security benefits ought to be increased by 7 percent effective in

February 1970. More recently we have been reading in the papers that the House may not take up social security legislation in this session.

I would take this opportunity, Mr. President, to remind the Senate that in December 1967 we voted the last increase in social security benefits. That increase took effect for February 1968 and finally got to the social security beneficiaries with their March 3, 1968, checks.

In view of the fact that the present administration suggests a 7-percent benefit increase—and I quote from the President's message—"to take account of the rise in living costs," I think we should look at what has happened to the cost of living since the last time we voted to increase social security benefits.

In April of this year the Consumer Price Index stood at 126.4. This was 106.93 percent of the December 1967 index—118.2; 106.21 percent of the February 1968 index—119; and 105.77 percent of the March 1968 index—119.5.

These figures make it very clear that the time for a social security benefit increase is now and not next February. As of this moment the cost of living is more than 7 percent higher than it was when we voted for the last benefit increase. Even if we agreed on a 7-percent benefit increase today, it could not get to the beneficiaries before September or October. And, by that time, the cost of living clearly will be more than 7 percent above the cost of living for February or March 1968.

A 7-percent rise in social security benefits at this time need not be the definitive social security legislation of the 91st Congress. Rather, it should be looked upon as an immediate stopgap to the erosion of social security benefits through inflation.

In calling for an immediate increase in social security benefits, I am aware that social security legislation is considered tax legislation and therefore must be initiated in the House of Representatives. I would, however, remind our colleagues in the House of our collective duty to the 25 million people who depend on social security benefits for all, or a major part, of their income. These people are the ones whom inflation hurts the most. We can not delay an increase in their benefits for an unnecessary moment. Our elderly citizens need more money now—not next year—just to break even with the rising cost of living. I have been assured that a 7-percent rise in social security benefits can be had without any need to increase social security revenues. Therefore, there is no reason for delay.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

NATIONAL COMMITMENTS

Mr. DIRKSEN. Mr. President, I ask the Chair to lay before the Senate the unfinished business.

The PRESIDING OFFICER. The unfinished business will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. Senate Resolution 85, expressing the sense of the Senate relative to commitments to foreign powers.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Illinois?

There being no objection, the Senate resumed the consideration of the resolution.

Mr. DIRKSEN. Mr. President, I think the reasons why Senate Resolution 85 is before the Senate are quite understandable. I think everybody realizes the frustration that is before the Senate as a result of the conflict in Asia. It has gone on now for a great many years. Not only is there frustration here, but the people in the country are frustrated as well. Add to that the fact that after the so-called Tonkin Gulf resolution was enacted, and Members of the Senate discovered how much power was really delegated for the purpose of using our Armed Forces, it only added to their dismay.

Perhaps not the least of the reasons is a certain sense of senatorial ego. We do have some pride in this body and its constitutional powers and the way it has functioned over a long period of time. It is, of course, so easy to assert the prerogatives of the Senate under circumstances like these.

Then there is perhaps the apprehension that there is a kind of legislative erosion that develops in the circumstances and that, unless it is stopped, unless the damage already done is at least partially repaired, who shall say what an imbalance may come into our governmental structure?

I think, however, the Foreign Relations Committee was on better and more realistic ground on November 20, 1967, when it reported Senate Resolution 187. That resolution is available for anyone who wants to see it. The committee did at least one thing. It defined what concerned us; namely, the use of a promise of the Armed Forces of the country. Then there were what I thought were realistic limitations with respect to repelling attack and giving protection to the property and the lives of our citizens.

All that, however, is lacking in the resolution that is presently before us.

I think there are certain agreed aspects of this matter on which there would be no quibbling and perhaps no controversy. We all agree that the resolution is not binding. It does not bind the President of the United States. It does not bind the Commander in Chief. And if so, one can well argue, if it does not bind the Commander in Chief and the President, for all practical purposes it is a nullity and it can very well be ignored if the President so desires.

The second agreed factor is that this resolution cannot impair the President's constitutional powers, those vouchsafed by the organic law, and nothing we can do by way of resolution enacted by one branch of the Congress or by any statute can impair that power, and he can use it whenever he likes. It can, therefore, be completely ignored.

But I think we can agree also, Mr. President, that the resolution can well be misinterpreted, not only at home but abroad. We may have the idea that the leaders in other countries have a very sophisticated and refined sense of what our constitutional system really is and where the limitations are; but I am not sure that that is true, and particularly when you read it without the fine print on the front of pages of newspapers all over the world. It is always possible that they may come to the conclusion that, suddenly, the Senate of the United States has placed a limitation upon the power of the President and has, in fact, hancuffed him. That would be a dangerous thing, indeed. So I shudder a little at the prospect of that kind of interpretation.

But the difficulty is that it can be misinterpreted also at home. That is already evident, as we have had three resolutions with which to deal. Two of them have been reported out of the Foreign Relations Committee, the one in November of 1967 and the current resolution that is presently before us. So evidently the committee had a change of heart, modified the language very substantially, and has come in with wholly different language and, in my judgment, language that is quite unsatisfactory.

The other agreed fact, Mr. President, is that the President of the United States is opposed to this resolution. He has said so, not privately; he has said so publicly. There was nothing else that he could say except to utter his opposition, for if he failed to do so, he would put himself in the rather unhappy position of admitting that he was ready for an impairment of his constitutional power. No President could undertake to do that. So he states very freely and frankly that he is opposed to the resolution.

What, then, can we conclude if the resolution is passed? Simply that it has been forced upon the President of the United States against his will, that it has been forced upon him against his better judgment, in view of the fact that he has publicly stated his opposition. That might very well be interpreted as something of a break between the Senate and the President. I hope it is not, and I hope those who undertake to expose this whole action and set it before the people will not say that there is a break between the U.S. Senate and the President.

Mr. President, under those circumstances, it occurred to me that there ought to be a substitute resolution; but before I say more about it, I would like to just look again at the text of Senate Resolution 85.

The so-called whereas clause recites:

> Whereas accurate definition of the term "national commitment" in recent years has become obscured: Now, therefore, be it
> *Resolved*—

Mr. President, in drafting a resolution of this kind, I think if I had had a hand in the draftsmanship, and had concluded that that term was obscured, I certainly would like to have dispelled that obscuration if I could, and would have recited the clarification in the resolution itself. But the resolution fails to do so, because then it continues:

That it is the sense of the Senate that a national commitment by the United States to a foreign power necessarily and exclusively results from affirmative action taken by the executive and legislative branches of the United States Government—

There is no definition there of a national commitment. None whatsoever. So while it begins with the observation that that term is obscured, it does not remedy or cure the obscurity.

Finally, the last clause of the resolution says that this necessary and exclusive affirmative action shall be taken by the two branches, executive and legislative, "through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment."

Mr. President, I have observed before that that is as wide open as a 40-acre field. It covers everything. Of course, invasion or intrusion upon the constitutional powers of the President is easy. One need only look at the history of the use of force by the President of the United States in his capacity as Commander in Chief to see how many instances there have been where, for one reason or another, it had to be used. One may go way back to 1798 and 1800, when we had a sort of a quasi-war with France. Troops had to be used. We had to defend ourselves, and the President was not about to ask the advice of Congress in the matter, in view of the danger that beset the country.

In 1801, we were at war with Tripoli over the machinations and depredations of the Tripoli pirates. There again, the forces had to be used.

In 1806, we had a problem with Mexico. Capt. Z. M. Pike, with a platoon of troops, on orders of Gen. James Wilkinson, invaded Spanish territory at the headwaters of the Rio Grande. Pike was imprisoned and later released.

That was on our home hemisphere and just across the border. Here was a case in which the President had to act quickly for the preservation of life and property.

In 1806, and for a period of 4 years thereafter, we had a problem in the Gulf of Mexico. Again, gunboats operated from New Orleans against Spanish and French privateers.

Of course, these privateer operators and pirates do not telegraph their purposes. They do not notify the President of the United States when they are going to strike. They strike, and they strike now, because the advantage that they seek is always one of surprise.

So there was the period when we had to contend with this problem in the Gulf of Mexico, and there again, armed action had to be taken without any declaration of war.

In 1810, west Florida was still Spanish territory. Governor Caliborne of Louisiana, on orders from the President, occupied with troops disrupted territories east of the Mississippi as far as the Pearl River. Actually, there was no armed clash, but the situation did require the intervention of troops under the direction of the Commander in Chief.

In 1812, President Madison and Congress authorized temporary occupation by American troops of Amelia Island and other parts of east Florida, which at the time were also Spanish territory, in order to prevent occupation by any other power. But when Gen. George Matthews took possession by naming himself the head of a revolutionary party, the United States disavowed his action because of irregularities.

In 1813, west Florida was still Spanish territory. On authority granted by Congress, General Wilkinson seized Mobile Bay with 600 soldiers. The small Spanish garrison gave in without fighting.

In 1813 and 1814, the Marquesas Islands were claimed by Spain. The U.S. forces built a fort on one of the islands to protect three captured prize ships.

Under all these circumstances, Mr. President, what was the President of the United States to do, and what would he do under a resolution like Senate Resolution 85?

Of course the resolution speaks about a commitment to a foreign power. Many of these incidents, I fancy, can be interpreted not to involve commitments. But in any event, there are some that would have to be considered as commitments.

In 1814 to 1825, in the Caribbean area, there were repeated engagements between American ships and pirates. In 1822, Commodore James Biddle employed a squadron of two frigates, four sloops of war, two brigs, four schooners, and two gunboats in the West Indies.

That was use of our Armed Forces. It did not necessarily involve a commitment to a foreign power, but it did involve use of our Armed Forces, and who shall say how it should be interpreted?

Mr. President, I could go through this long list, which I do not propose to do; but at this point, I ask unanimous consent that the entire list, which is many pages in length, be printed in the RECORD.

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

USE OF U.S. ARMED FORCES IN FOREIGN COUNTRIES

II. INSTANCES OF USE OF U.S. ARMED FORCES ABROAD, 1798–1945

1798–1800—Undeclared naval war with France.—This contest included land actions, such as that in the Dominican Republic, city of Puerto Plata, where marines captured a French privateer under the guns of the forts.

1801–05—Tripoli.—The First Barbary War, including the *George Washington* and *Philadelphia* affairs and the Eaton expedition, during which a few marines landed with United States Agent William Eaton to raise a force against Tripoli in an effort to free the crew of the *Philadelphia*. Tripoli declared war but not the United States.

1806—Mexico (Spanish territory).—Capt. Z. M. Pike, with a platoon of troops, invaded Spanish territory at the headwaters of the Rio Grande deliberately and on orders from Gen. James Wilkinson. He was made prisoner without resistance at a fort he constructed in present day Colorado, taken to Mexico, later released after seizure of his papers. There was a political purpose, still a mystery.

1806–10—Gulf of Mexico.—American gunboats operated from New Orleans against Spanish and French privateers, such as LaFitte, off the Mississippi Delta, chiefly under Capt. John Shaw and Master Commandant David Porter.

1810—West Florida (Spanish territory).—Gov. Claiborne of Louisiana, on orders of the President, occupied with troops territory in dispute east of Mississippi as far as the Pearl River, later the eastern boundary of Louisiana. He was authorized to seize as far east as the Perdido River. No armed clash.

1812—Amelia Island and other parts of east Florida, then under Spain..—Temporary possession was authorized by President Madison and by Congress, to prevent occupation by any other power; but possession was obtained by Gen. George Matthews in so irregular a manner that his measures were disavowed by the President.

1812–15—Great Britain.—War of 1812. Formally declared.

1813—West Florida (Spanish territory).—On authority given by Congress, General Wilkinson seized Mobile Bay in April with 600 soldiers. A small Spanish garrison gave way. Thus we advanced into disputed territory to the Perdido River, as projected in 1810. No fighting.

1813–14—Marquesas Islands.—Built a fort on island of Nukahiva to protect three prize ships which had been captured from the British.

1814—Spanish Florida.—Gen. Andrew Jackson took Pensacola and drove out the British with whom the United States was at war.

1814–25—Caribbean.—Engagements between pirates and American ships or squadrons took place repeatedly especially ashore and offshore about Cuba, Puerto Rico, Santo Domingo, and Yucatan. Three thousand pirate attacks on merchantmen were reported between 1815 and 1823. In 1822 Commodore James Biddle employed a squadron of two frigates, four sloops of war, two brigs, four schooners, and two gunboats in the West Indies.

1815—Algiers.—The Second Barbary War, declared by our enemies but not by the United States. Congress authorized an expedition. A large fleet under Decatur attacked Algiers and obtained indemnities.

1815—Tripoli.—After securing an agreement from Algiers, Decatur demonstrated with his squadron at Tunis and Tripoli, where he secured indemnities for offenses against us during the War of 1812.

1816—Spanish Florida.—United States forces destroyed Nicholls Fort, called also Negro Fort, because it harbored raiders into United States territory.

1816–18—Spanish Florida—First Seminole War.—The Seminole Indians, whose area was a resort for escaped slaves and border ruffians, were attacked by troops under Generals Jackson and Gaines and pursued into northern Florida. Spanish posts were attacked and occupied, British citizens executed. There was no declaration or congressional authorization but the Executive was sustained.

1817—Amelia Island (Spanish territory off Florida).—Under orders of President Monroe, United States forces landed and expelled a group of smugglers, adventurers, and freebooters.

1818—Oregon.—The U.S.S. *Ontario*, dispatched from Washington, landed at the Columbia River and in August took possession. Britain had conceded sovereignty but Russia and Spain asserted claims to the area.

1820–26—Africa.—Naval units raided the slave traffic pursuant to the 1819 act of Congress.

1822—Cuba.—United States naval forces suppressing piracy landed on the northwest coast of Cuba and burned a pirate station.

1823—Cuba.—Brief landings in pursuit of pirates occurred April 8 near Escondido; April 16 near Cayo Blanco; July 11 at Siquapa Bay; July 21 at Cape Cruz; and October 23 at Camrioca.

1824—Cuba.—In October the U.S.S. *Porpoise* landed bluejackets near Matanzas in pursuit of pirates. This was during the cruise authorized in 1822.

1824—Puerto Rico (Spanish territory).—Commodore David Porter with a landing party attacked the town of Fajardo which

had sheltered pirates and insulted American naval officers. He landed with 200 men in November and forced an apology.

1825—Cuba.—In March cooperating American and British forces landed at Sagua La Grande to capture pirates.

1827—Greece.—In October and November landing parties hunted pirates on the islands of Argenteire, Miconi, and Andross.

1831–32—Falkland Islands.—To investigate the capture of three American sealing vessels and to protect American interests.

1832—Sumatra—February 6 to 9.—To punish natives of the town of Quallah Battoo for depredations on American shipping.

1833—Argentina—October 31 to November 15.—A force was sent ashore at Buenos Aires to protect the interests of the United States and other countries during an insurrection.

1835–36—Peru—December 10, 1835 to January 24, 1836, and August 31 to December 2, 1836.—Marines protected American interests in Callao and Lima during an attempted revolution.

1836—Mexico.—General Gaines occupied Nacogdoches (Tex.), disputed territory, from July to December during the Texan war for independence, under order to cross the "imaginary boundary line" if an Indian outbreak threatened.

1838–39—Sumatra—December 24, 1838, to January 4, 1839.—To punish natives of the towns of Quallah Battoo and Muckie (Mukki) for depredations on American shipping.

1840—Fiji Islands—July.—To punish natives for attacking American exploring and surveying parties.

1841—Drummond Island, Kingsmill Group.—To avenge the murder of a seaman by the natives.

1841—Samoa—February 24.—To avenge the murder of a seaman on Upolu Island.

1842—Mexico.—Commodore T. A. C. Jones in command of a squadron long cruising off California, occupied Monterey, Calif., on October 19, believing war had come. He discovered peace, withdrew, and saluted. A similar incident occurred a week later at San Diego.

1843—Africa, November 29 to December 16.—Four United States vessels demonstrated and landed various parties (one of 200 marines and sailors) to discourage piracy and the slave trade along the Ivory coast, etc., and to punish attacks by the natives on American seamen and shipping.

1844—Mexico.—President Tyler deployed our forces to protect Texas against Mexico, pending Senate approval of a treaty of annexation. (Later rejected.) He defended his action against a Senate resolution of inquiry. This was a demonstration or preparation.

1846–48—Mexico, the Mexican War.—President Polk's occupation of disputed territory precipitated it. War was formally declared.

1849—Smyrna.—In July a naval force gained release of an American seized by Austrian officials.

1851—Turkey.—After a massacre of foreigners (including Americans) at Jaffa in January, a demonstration by our Mediterranean Squadron was ordered along the Turkish (Levant) coast. Apparently no shots fired.

1851—Johanna Island (east of Africa), August.—To exact redress for the unlawful imprisonment of the captain of an American whaling brig.

1852–53—Argentina—February 3 to 12, 1852; September 17, 1852 to April (?) 1853.—Marines were landed and maintained in Buenos Aires to protect American interests during a revolution.

1853—Nicaragua—March 11 to 13.—To protect American lives and interests during political disturbances.

1853–54—Japan.—The "opening of Japan" and the Perry Expedition.

1853–54—Ryukyu and Bonin Islands.—Commodore Perry on three visits before going to Japan and while waiting for a reply from Japan made a naval demonstration, landing marines twice, and secured a coaling concession from the ruler of Naha on Okinawa. He also demonstrated in the Bonin Islands. All to secure facilities for commerce.

1854—China—April 4 to June 15 or 17.—To protect American interests in and near Shanghai during Chinese Civil strife.

1854—Nicaragua—July 9 to 15.—San Juan del Norte (Greytown) was destroyed to avenge an insult to the American Minister to Nicaragua.

1855—China—May 19 to 21 (?).—To protect American interests in Shanghai. August 3 to 5 to fight pirates near Hong Kong.

1855—Fiji Islands—September 12 to November 4.—To seek reparations for depredations on Americans.

1855—Uruguay—November 25 to 29 or 30.—United States and European naval forces landed to protect American interests during an attempted revolution in Montevideo.

1856—Panama, Republic of New Grenada—September 19 to 22.—To protect American interests during an insurrection.

1856—China—October 22 to December 6.—To protect American interests at Canton during hostilities between the British and the Chinese; and to avenge an unprovoked assault upon an unarmed boat displaying the United States flag.

1857—Nicaragua—April to May, November to December.—To oppose William Walker's attempt to get control of the country. In May Commander C. H. Davis of the United States Navy, with some marines, received Walker's surrender and protected his men from the retaliation of native allies who had been fighting Walker. In November and December of the same year United States vessels *Saratoga, Wabash,* and *Fulton* opposed another attempt of William Walker on Nicaragua. Commodore Hiram Paulding's act of landing marines and compelling the removal of Walker to the United States, was tacitly disavowed by Secretary of State Lewis Cass, and Paulding was forced into retirement.

1858—Uruguay—January 2 to 27.—Forces from 2 United States warships landed to protect American property during a revolution in Montevideo.

1858—Fiji Islands—October 6 to 16.—To chastise the natives for the murder of two American citizens.

1858–59—Turkey.—Display of naval force along the Levant at the request of the Secretary of State after massacre of Americans at Jaffa and mistreatment elsewhere "to remind the authorities (of Turkey) * * * of the power of the United States."

1859—Paraguay.—Congress authorized a naval squadron to seek redress for an attack on a naval vessel in the Parana River during 1855. Apologies were made after a large display of force.

1859—Mexico.—Two hundred United States soldiers crossed the Rio Grande in pursuit of the Mexican bandit Cortina.

1859—China—July 31 to August 2.—For the protection of American interests in Shanghai.

1860—Angola, Portuguese West Africa—March 1.—To protect American lives and property at Kissembo when the natives became troublesome.

1860—Colombia, Bay of Panama—September 27 to October 8.—To protect American interests during a revolution.

1863—Japan—July 16.—To redress an insult to the American flag—firing on an American vessel—at Shimonoseki.

1864—Japan—July 14 to August 3, approximately.—To protect the United States Minister to Japan when he visited Yedo to negotiate concerning some American claims against Japan, and to make his negotiations easier by impressing the Japanese with American power.

1864—Japan—September 4 to 14—Straits of Shimonoseki.—To compel Japan and the Prince of Nagato in particular to permit the Straits to be used by foreign shipping in accordance with treaties already signed.

1865—Panama—March 9 and 10.—To protect the lives and property of American residents during a revolution.

1866—Mexico.—To protect American residents, General Sedgwick and 100 men in November obtained surrender of Matamoras. After 3 days he was ordered by our Government to withdraw. His act was repudiated by the President.

1866—China—June 20 to July 7.—To punish an assault on the American consul at Newchwang; July 14, for consultation with authorities on shore; August 9, at Shanghai, to help extinguish a serious fire in the city.

1867—Island of Formosa—June 13.—To punish a horde of savages who were supposed to have murdered the crew of a wrecked American vessel.

1868—Japan (Osaka, Hiogo, Nagasaki, Yokohama, and Negeta)—Mainly February 4 to 8, April 4 to May 12, June 12 and 13.—To protect American interests during the civil war in Japan over the abolition of the Shogunate and the restoration of the Mikado.

1868—Uruguay—February 7 and 8, 19 to 26.—To protect foreign residents and the customhouse during an insurrection at Montevideo.

1868—Colombia—April 7—at Aspinwall.—To protect passengers and treasure in transit during the absence of local police or troops on the occasion of the death of the President of Colombia.

1870—Mexico, June 17 and 18.—To destroy the pirate ship *Forward*, which had been run aground about 40 miles up the Rio Tecapan.

1870—Hawaiian Islands—September 21.—To place the American flag at half mast upon the death of Queen Kalama, when the American consul at Honolulu would not assume responsibility for so doing.

1871—Korea—June 10 to 12.—To punish natives for depredations on Americans, particularly for murdering the crew of the General Sherman and burning the schooner, and for later firing on other American small boats taking soundings up the Salee River.

1873—Colombia (Bay of Panama)—May 7 to 22, September 23 to October 9.—To protect American interests during hostilities over possession of the government of the State of Panama.

1873—Mexico.—United States troops crossed the Mexican border repeatedly in pursuit of cattle and other thieves. There were some reciprocal pursuits by Mexican troops into our border territory. The cases were only technically invasions, if that, although Mexico protested constantly. Notable cases were at Remolina in May 1873 and at Las Cuevas in 1875. Washington orders often supported these excursions. Agreements between Mexico and the United States, the first in 1882, finally legitimized such raids. They continued intermittently, with minor disputes, until 1896.

1874—Hawaiian Islands—February 12 to 20.—To preserve order and protect American lives and interests during the inauguration of a new king.

1876—Mexico—May 18.—To police the town of Matamoros temporarily while it was without other government.

1882—Egypt—July 14 to 18.—To protect American interests during warfare between British and Egyptians and looting of the city of Alexandria by Arabs.

1885—Panama (Colon)—January 18 and 19.—To guard the valuables in transit over the Panama Railroad, and the safes and vaults of the company during revolutionary activity. In March, April, and May in the cities of Colon and Panama, to reestablish freedom of transit during revolutionary activity.

1888—Korea—June.—To protect American residents in Seoul during unsettled political conditions, when an outbreak of the populace was expected.

1888–89—Samoa—November 14, 1888, to March 20, 1889.—To protect American citi-

zens and the consulate during a native civil war.

1888—Haiti—December 20.—To persuade the Haitian Government to give up an American steamer which had been seized on the charge of breach of blockade.

1889—Hawaiian Islands—July 30 and 31.—To protect American interests at Honolulu during a revolution.

1890—Argentina.—A naval party landed to protect our consulate and legation in Buenos Aires.

1891—Haiti.—To protect American lives and property on Navassa Island when Negro laborers got out of control.

1891—Bering Sea—July 2 to October 5.—To stop seal poaching.

1891—Chile—August 28 to 30.—To protect the American consulate and the women and children who had taken refuge in it during a revolution in Valparaiso.

1893—Hawaii—January 16 to April 1.—Ostensibly to protect American lives and property; actually to promote a provisional government under Sanford B. Dole. This action was disavowed by the United States.

1894—Brazil—January.—To protect American commerce and shipping at Rio de Janeiro during a Brazilian civil war. No landing was attempted but there was a display of naval force.

1894—Nicaragua—July 6 to August 7.—To protect American interests at Bluefields following a revolution.

1894–96—Korea—July 24, 1894 to April 3, 1896.—To protect American lives and interests at Seoul during and following the Sino-Japanese War. A guard of marines was kept at the American legation most of the time until April 1896.

1894–95—China—Marines were stationed at Tientsin and penetrated to Peking for protection purposes during the Sino-Japanese War.

1894–95—China—Naval vessel beached and used as a fort at Newchwang for protection of American nationals.

1895—Colombia—March 8 to 9.—To protect American interests during an attack on the town of Bocas del Toro by a bandit chieftain.

1896—Nicaragua—May 2 to 4.—To protect American interests in Corinto during political unrest.

1898—Nicaragua—February 7 and 8.—To protect American lives and property at San Juan del Sur.

1898—Spain.—The Spanish-American War. Fully declared.

1898–99—China—November 5, 1898, to March 15, 1899.—To provide a guard for the legation at Peking and the consulate at Tientsin during contest between the Dowager Empress and her son.

1899—Nicaragua.—To protect American interests at San Juan del Norte, February 22 to March 5, and at Bluefields a few weeks later in connection with the insurrection of Gen. Juan P. Reyes.

1899—Samoa—March 13 to May 15.—To protect American interests and to take part in a bloody contention over the succession to the throne.

1899–1901—Philippine Islands.—To protect American interests following the war with Spain, and to conquer the islands by defeating the Filipinos in their war for independence.

1900—China—May 24 to September 28.—To protect foreign lives during the Boxer rising, particularly at Peking. For many years after this experience a permanent legation guard was maintained in Peking, and was strengthened at times as trouble threatened. It was still there in 1934.

1901—Colombia (State of Panama)—November 20 to December 4.—To protect American property on the Isthmus and to keep transit lines open during serious revolutionary disturbances.

1902—Colombia—April 16 to 23.—To protect American lives and property at Bocas del Toro during a civil war.

1902—Colombia (State of Panama)—September 17 to November 18.—To place armed guards on all trains crossing the Isthmus and to keep the railroad line open.

1903—Honduras—March 23 to 30 or 31.—To protect the American consulate and the steamship wharf at Puerto Cortez during a period of revolutionary activity.

1903—Dominican Republic—March 30 to April 21.—To protect American interests in the city of Santo Domingo during a revolutionary outbreak.

1903—Syria—September 7 to 12.—To protect the American consulate in Beirut when a local Moslem uprising was feared.

1903–14—Panama.—To protect American interests and lives during and following the revolution for independence from Colombia over construction of the Isthmian Canal. With brief intermissions, United States Marines were stationed on the Isthmus from November 4, 1903, to January 21, 1914, to guard American interests.

1904—Dominican Republic—January 2 to February 11.—To protect American interests in Puerto Plata and Sosua and Santo Domingo City during revolutionary fighting.

1904–5—Korea—January 5, 1904, to November 11, 1905.—To guard the American Legation in Seoul.

1904—Tangier, Morocco.—"We want either Perdicaris alive or Raisuli dead." Demonstration by a squadron to force release of a kidnapped American. Marine guard landed to protect consul general.

1904—Panama—November 17 to 24.—To protect American lives and property at Ancon at the time of a threatened insurrection.

1904–05—Korea.—Marine guard sent to Seoul for protection during Russo-Japanese War.

1906–09—Cuba—September 1906 to January 23, 1909.—Intervention to restore order, protect foreigners, and establish a stable government after serious revolutionary activity.

1907—Honduras—March 18 to June 8.—To protect American interests during a war between Honduras and Nicaragua; troops were stationed for a few days or weeks in Trujillo, Ceiba, Puerto Cortez, San Pedro, Laguna, and Choloma.

1910—Nicaragua—February 22.—During a civil war, to get information of conditions at Corinto; May 19, to September 4, to protect American interests at Bluefields.

1911—Honduras—January 26 and some weeks thereafter.—To protect American lives and interests during a civil war in Honduras.

1911—China.—Approaching stages of the nationalist revolution. An ensign and 10 men in October tried to enter Wuchang to rescue missionaries but retired on being warned away.

A small landing force guarded American private property and consulate at Hankow in October.

A marine guard was established in November over the cable stations at Shanghai.

Landing forces were sent for protection to Nanking, Chinkiang, Taku and elsewhere.

1912—Honduras.—Small force landed to prevent seizure by the Government of an American-owned railroad at Puerto Cortez. Forces withdrawn after the United States disapproved the action.

1912—Panama.—Troops, on request of both political parties, supervised elections outside the Canal Zone.

1912—Cuba—June 5 to August 5.—To protect American interests in the Province of Oriente, and Habana.

1912—China—August 24 to 26, on Kentucky Island, and August 26 to 30 at Camp Nicholson.—To protect Americans and American interests during revolutionary activity.

1912—Turkey—November 18 to December 3.—To guard the American legation at Constantinople during a Balkan War.

1912–25—Nicaragua—August to November 1912.—To protect American interests during an attempted revolution. A small force serving as a legation guard and as a promoter of peace and governmental stability, remained until August 5, 1925.

1912–41—China.—The disorders which began with the Kuomintang rebellion in 1912, which were redirected by the invasion of China by Japan and finally ended by war between Japan and the United States in 1941, led to demonstrations and landing parties for protection in China continuously and at many points from 1912 on to 1941. The guard at Peking and along the route to the sea was maintained until 1941. In 1927, the United States had 5,670 troops ashore in China and 44 naval vessels in its waters. In 1933 we had 3,027 armed men ashore. All this protective action was in general terms based on treaties with China ranging from 1858 to 1901.

1913—Mexico—September 5 to 7.—A few marines landed at Ciaris Estero to aid in evacuating American citizens and others from the Yaqui Valley, made dangerous for foreigners by civil strife.

1914—Haiti—January 29 to February 9, February 20 to 21, October 19.—To protect American nationals in a time of dangerous unrest.

1914—Dominican Republic—June and July.—During a revolutionary movement, United States naval forces by gunfire stopped the bombardment of Puerto Plata, and by threat of force maintained Santo Domingo City as a neutral zone.

1914–17—Mexico.—The undeclared Mexican-American hostilities following the Dolphin affair and Villa's raids included capture of Vera Cruz and later Pershing's expedition into northern Mexico.

1915–34—Haiti—July 28, 1915, to August 15, 1934.—To maintain order during a period of chronic and threatened insurrection.

1916–24—Dominican Republic—May 1916 to September 1924.—To maintain order during a period of chronic and threatened insurrection.

1917–18—World War I. Fully declared.

1917–33—Cuba.—To protect American interests during an insurrection and subsequent unsettled conditions. Most of the United States armed forces left Cuba by August 1919, but two companies remained at Camaguey until February 1922.

1918–19—Mexico.—After withdrawal of the Pershing expedition, our troops entered Mexico in pursuit of bandits at least three times in 1918 and six in 1919. In August 1918 American and Mexican troops fought at Nogales.

1918–20—Panama.—For police duty according to treaty stipulations, at Chiriqui, during election disturbances and subsequent unrest.

1918–20—Soviet Russia.—Marines were landed at and near Vladivostok in June and July to protect the American consulate and other points in the fighting between the Bolsheviki troops and the Czech Army which had traversed Siberia from the western front. A joint proclamation of emergency government and neutrality was issued by the American, Japanese, British, French, and Czech commanders in July and our party remained until late August.

In August the project expanded. Then 7,000 men were landed in Vladivostok and remained until January 1920, as part of an allied occupational force.

In September 1918, 5,000 American troops joined the allied intervention force at Archangel, suffered 500 casualties and remained until June 1919.

A handful of marines took part earlier in a British landing on the Murman coast (near Norway) but only incidentally.

All these operations were to offset effects of the Bolsheviki revolution in Russia and were partly supported by Czarist or Kerensky elements. No war was declared. Bolsheviki elements participated at times with us but Soviet Russia still claims damages.

1919—Honduras—September 8 to 12.—A landing force was sent ashore to maintain order in a neutral zone during an attempted revolution.

1920–22—Russia (Siberia) February 16, 1920, to November 19, 1922.—A marine guard to protect the United States radio station and property on Russian Island, Bay of Vladivostok.

1920—China—March 14.—A landing force was sent ashore for a few hours to protect lives during a disturbance at Kiukiang.

1920—Guatemala—April 9 to 27.—To protect the American Legation and other American interests, such as the cable station, during a period of fighting between Unionists and the Government of Guatemala.

1921 — Panama-Costa Rica. — American naval squadrons demonstrated in April on both sides of the Isthmus to prevent war between the two countries over a boundary dispute.

1922—Turkey—September and October.—A landing force was sent ashore with consent of both Greek and Turkish authorities to protect American lives and property when the Turkish Nationalists entered Smyrna.

1924—Honduras—February 28 to March 31, September 10 to 15.—To protect American lives and interests during election hostilities.

1924—China—September.—Marines were landed to protect Americans and other foreigners in Shanghai during Chinese factional hostilities.

1925—China—January 15 to August 29.—Fighting of Chinese factions accompanied by riots and demonstrations in Shanghai necessitated landing American forces to protect lives and property in the International Settlement.

1925—Honduras—April 19 to 21.—To protect foreigners at La Ceiba during a political upheaval.

1925—Panama—October 12 to 23.—Strikes and rent riots led to the landing of about 600 American troops to keep order and protect American interests.

1926–33—Nicaragua—May 7 to June 5, 1926; August 27, 1926, to January 3, 1933.—The coup d'etat of General Chamorro aroused revolutionary activities leading to the landing of American marines to protect the interests of the United States. United States forces came and went, but seem not to have left the country entirely until January 3, 1933. Their work included activity against the outlaw leader Sandino in 1928.

1926—China—August and September.—The Nationalist attack on Hankow necessitated the landing of American naval forces to protect American citizens. A small guard was maintained at the consulate general even after September 16, when the rest of the forces were withdrawn. Likewise, when Nationalist forces captured Kiukiang, naval forces were landed for the protection of foreigners November 4 to 6.

1927—China—February.—Fighting at Shanghai caused American naval forces and marines to be increased there. In March a naval guard was stationed at the American consulate at Nanking after Nationalist forces captured the city. American and British destroyers later used shell fire to protect Americans and other foreigners. "Following this incident additional forces of marines and naval vessels were ordered to China and stationed in the vicinity of Shanghai and Tientsin."

1933—Cuba.—During a revolution against President Gerardo Machado naval forces demonstrated but no landing was made.

1940—Newfoundland, Bermuda, St. Lucia, Bahamas, Jamaica, Antigua, Trinidad, and British Guiana.—Troops were sent to guard air and naval bases obtained by negotiation with Great Britain. These were sometimes called lend-lease bases.

1941—Greenland.—Taken under protection of the United States in April.

1941—Netherlands (Dutch Guiana).—In November the President ordered American troops to occupy Dutch Guiana but by agreement with the Netherlands government in exile. Brazil cooperated to protect aluminum ore supply from the bauxite mines in Surinam.

1941—Iceland.—Taken under the protection of the United States, with consent of its Government, for strategic reasons.

1941—Germany.—Sometime in the spring the President ordered the Navy to patrol ship lanes to Europe. By July our warships were convoying and by September were attacking German submarines. There was no authorization of Congress or declaration of war. In November the Neutrality Act was partly repealed to protect military aid to Britain, Russia, etc.

1941–45—Germany, Italy, Japan, etc.—World War II. Fully declared.

1942—Labrador.—Army-Navy air bases established.

SINCE 1945

1950—Korean action.
1957—Lebanon.
1962—Cuba.
1964—Vietnam.

Mr. DIRKSEN. If I wanted to bring this up to date, I could, of course, go down to these later incidents, such as, first of all, the recognition of the Soviet Union. That occurred in November of 1933. That was very definitely and unequivocally a commitment by the United States, through the President. He committed us to recognition of the Soviet Union after a long period when we did not recognize that country, and simply had had no dealings with her.

Pursuant to that commitment, there are certain things that we undertook and other things that the Soviet Union undertook. If anyone is curious, he can send to the Library of Congress and get the exchange of five different memorandums between President Franklin Delano Roosevelt and Maxim Litvinov who came here as a special representative of the Soviet Union.

There was no consultation with Congress. There was no consultation with the House of Representatives or with the Senate. However, that commitment was made.

The pending resolution speaks of a national commitment by the United States to a foreign power. It does not say what kind of commitment. So, one, perforce, is forced to the conclusion that it covers the whole field, whether military forces are employed or not.

We might consider still another item. That involves what happened as far as Lebanon was concerned, because in that case I remember quite well when the President of Lebanon requested of this Government that we send forces there because the country was in serious difficulty.

I recall also that President Eisenhower summoned the leadership of Congress to the White House. I remember very well that Alan Dulles, the head of the CIA, was there to give us the benefit of what his agency had developed by way of information that did not readily meet the naked eye.

I recall that Secretary John Foster Dulles was there to make a very brief observation on the situation that obtained. I remember then the remarks of the President of the United States and his determination that he was going to ascertain from everyone in that room at the White House what his views were with respect to committing 5,000 marines to Lebanon. That commitment was made. However, the leadership, while it could be regarded as representative of the Senate and of the House of Representatives, was still not the Senate. And it was not the House of Representatives. Yet it was done.

When we come to the case of Santo Domingo where lives and property were in jeopardy, there was no time to be lost. Troops had to be committed and sent there so as to dispel that danger and save lives and property.

I presume it can be said that the same thing happened when we dispatched planes to the Congo. There were limitations, of course, about how far they could proceed and where they could go. Yet, notwithstanding that fact, it was a commitment to what was then a kind of de facto government in the Congo. So, that would fall within the interdiction of a commitment as recited by Senate Resolution 85.

It has occurred to me, therefore, that the text of the pending resolution should be modified somewhat. I have found that Senate Resolution 187, which was passed by the Senate Committee on Foreign Relations in November of 1967, has been quite helpful in that respect.

A substitute will therefore be offered for the pending resolution, and that substitute does a variety of things.

First, it does recognize joint responsibility between the Senate and the President in the field of foreign policy. I think that is simply recognizing a fact. And I am willing publicly to so state.

Second, it does define what a national commitment really is.

Third, it limits that commitment of armed forces where hostilities are involved.

Fourth, it would apply to the future and not to any situation in which the United States is involved at the present time. To do so would only complicate the picture and obviously could do no good, because that situation could not be remedied or undone by anything that was retrospective in character.

It also includes the threat to national security. By that I mean that if there is a threat to our national security, the pending resolution or any other resolution or the sense of such a resolution would not apply if, for instance, a hostile power landed troops on Panama and got ready for some vicious action, no one would expect the Commander in Chief to wait until he was able to deal with the problem. He would want it done right away. And if, perforce, he had to come to the Senate and have it discussed,

how much time might elapse before expedient action can be had? So that is excluded.

Another exclusion is to repel an attack. I am pretty sure that no one now believes the hands of the Commander in Chief ought to be so tied that if there were an attack, either direct or constructive, he should not be able to act as quickly as he could get a message to the leaders of our Armed Forces. So that is taken out of the resolution.

Finally, it also extends to the protection of the United States citizens and their property. That was the case in Santo Domingo. There, of course, I believe the Commander in Chief was such on essentially good ground.

Those are clarifications that will appear in a modification that I am quite sure will be introduced in the Senate tomorrow. I earnestly hope that it will commend itself to the thinking and to the good judgment of the Senate.

I have discussed the matter with the majority leader, and I think I should supply him with a copy of the substitute at the present time with the understanding that it should not be disclosed for the moment because it will be introduced by members of the Foreign Relations Committee and not by the minority leader.

I think that is the appropriate thing to do. Senate Resolution 85 is being considered because of action by the committee. I think that committee members who are not too happy about the language of that text are the ones who should contrive to present new language for the consideration of the Senate. I think that will be done.

Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, first let me express my deep and personal appreciation to the distinguished minority leader for letting me have the opportunity to preview, so to speak, the substitute which will be offered to Senate Resolution 85 tomorrow.

I assure the distinguished minority leader that this will be gone over very carefully and thoroughly and with an open mind.

I am pleased to note that the overall proposal pending before the Senate in effect has widespread approval on both sides of the aisle.

It is apparent, of course, that what the Senate is doing is facing up to a Senate responsibility. And if we cannot face up to it, no one else will.

It should be stated that we are not trying to deprive the President of any of his constitutional power, responsibility, or authority. In effect, what we are trying to do is to strengthen his hand so as to bring about a degree of understanding, accommodation, and cooperation which, in the opinion of many Senators, will be most beneficial to the welfare of the Republic.

The question of joint responsibility has been emphasized by the minority leader. That is one of the bases of the pending resolution. He also stated that what we are considering applies to the future, not to the past. That is true. Now is not the time to cry over spilt milk or spilt blood, although references could be made to the Dominican Republic, the Spanish bases question, and the Congo.

I think I should say, in all candor, that the genesis of the pending resolution lay in the action of the previous administration in dispatching three cargo transport planes to the Congo without any consultation whatsoever with Congress as a whole or with the Senate, and that as a result of that move, made independently and without our knowledge, a number of us, including the distinguished senior Senator from Georgia (Mr. RUSSELL), the President pro tempore of this body; the chairman of the Committee on Foreign Relations, the distinguished Senator from Arkansas (Mr. FULBRIGHT); the senior Senator from Montana, now speaking; and other Senators, engaged in a colloquy. As a result, what might have been a followup to those three planes did not take place, and it was not too long before those transports, having accomplished their mission, were returned to the United States. That was the genesis of the pending resolution.

It is now time for us to face up to the responsibilities that the modern day and age placed upon all of us. The purpose of the resolution is not to tie the hands of the President; the purpose of the resolution is not to indicate a return to isolationism, neo or otherwise; nor to indicate that we are withdrawing into a shell, foregoing our responsibilities or advocating unilateralism. The purpose of the resolution is to assert, after five decades of erosion, the constitutional responsibility of the Senate in the conduct of the foreign policy of the Nation.

Perhaps I should point out to the Senate that at present the United States has on the order of 2,700 bases overseas. Four hundred and twenty-nine of them are considered major, and 2,297 are considered lesser. These bases cover 4,000 square miles of territory in 30 countries. They contain 1,750,000 servicemen, their dependent families, and foreign employees. The bases cost this Government $4.8 billion a year to maintain.

Furthermore, the United States is committed, through treaties and mutual assistance pacts, to come to the defense of 48 nations. To enable it to carry out this global role, the United States maintains 1,500,000 Americans in uniform overseas. The responsibilities which this country has undertaken since the end of World War II have become worldwide. But the Nation has neither the wealth nor the population to support such a global policy; nor is it capable of filling any void that might occur when other nations withdraw from particular areas. We are stretched very wide; we are stretched very thin. What might have been good a decade or two ago is not necessarily good today.

To sum up, in brief, the purpose of the resolution is not to curtail the power of the President in any degree. The resolution is directed against no President in particular. It is an attempt to accommodate the institution of the Senate and the institution of the Presidency and to combine the responsibilities which both, under the Constitution, have in the field of foreign affairs.

I again assure the minority leader that what he intends to offer in the nature of a substitute will be given the most serious consideration. I am happy to note that there is almost unanimous approval on the part of the Senate, on both sides of the aisle, of the importance of a resolution of this kind and of the need for the adoption of a resolution having this intent. It is long overdue. The fault over the past five decades does not lie in the Presidency. The fault for the erosion of the powers of the Senate lies in this body itself. Only this body can correct that situation; and this body will, I am sure, do so in a way which will not be inimical to the interests, the authority, or the responsibility of the President, but in a way which I sincerely think will be of mutual benefit to both institutions.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, communicated to the Senate the intelligence of the death of Hon. WILLIAM H. BATES, late a Representative from the State of Massachusetts, and transmitted the resolution of the House thereon.

LEGISLATIVE PROGRAM

Mr. DIRKSEN. Mr. President, this is probably the right time to ask the distinguished majority leader about the program for the remainder of today and for tomorrow.

I may say, incidentally, that I have been unable actually to provide any speakers for today. I understand that the Senate will have an abundance of speakers tomorrow, and that other matters may also be considered tomorrow.

Mr. MANSFIELD. Yes.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. President, with the approval of the distinguished minority leader, I should like to make a unanimous-consent request on the part of the joint leadership that we consider having the Senate convene at 11 o'clock tomorrow morning.

Mr. DIRKSEN. That is agreeable.

Mr. MANSFIELD. I make that request at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. MANSFIELD. The reason for this request is that it is the intention of the leadership to take up tomorrow the nomination of Otto F. Otepka, of Maryland, to be a member of the Subversive Activities Control Board.

It is also the intention of the leadership to take up the food stamp bill, which has been reported from the Committee on Agriculture and Forestry.

Both parties will have their policy meetings tomorrow. That will afford an opportunity for Senators who wish to speak on this or other subjects to do so.

It would be our hope that we could finish action on the pending resolution, if not tomorrow, certainly on Wednesday or Thursday at the latest.

It is also anticipated that sometime later in the week, after tomorrow, the Senate may convene an hour earlier, with the agreement of the minority leader,

so that certain Senators who have expressed a desire to do so may speak on the subject of the retirement of the Chief Justice of the United States.

It is also hoped that before we adjourn for the Fourth of July holiday—which, incidentally, includes only 1 workday—it will be possible to lay before the Senate the Department of Defense authorization bill, so that it may be the pending business when the Senate reconvenes on Monday, July 7.

That is about all I can say at this time.

NATIONAL COMMITMENTS

The Senate resumed the consideration of the resolution (S. Res. 85) expressing the sense of the Senate relative to commitments to foreign powers.

SENATE RESOLTION 85 AND CANADIAN OIL AGREEMENT

Mr. PROXMIRE. Mr. President, although some of the impetus for this resolution has come from the Vietnam situation, we ought not to overlook other committments entered into by the executive branch of our Government in apparent violation of both the law and the publicly stated policy of the President.

I am referring specifically to the secret agreement entitled "An Understanding Between the United States and Canada Regarding Overland Oil Imports From Canada to the United States" dated September 25, 1967. It, in effect, limits the amount of Canadian oil that can enter the United States in order to protect the markets of the U.S. oil producers.

This secret agreement was signed in apparent disregard for the published Presidential proclamation governing the mandatory oil import program and the legislation authorizing the President to limit imports in the name of national security.

The legislation authorizing the President to establish programs such as the mandatory oil import program is quite explicit—the only basis for such restrictions is national security.

Canadian oil is officially recognized as secure in the Presidential proclamation governing the mandatory oil import program because it exempts Canadian oil from import restrictions. No one disputes the fact that Canadian oil is secure.

However, this official, published proclamation did not deter the State Department which negotiated and signed this secret agreement with Canada in direct contradiction to the official, stated policy.

The Trade Agreements Act of 1954 which gave the President the power to restrict imports in the name of national security establishes certain conditions to be found and procedures to be followed before imports can be restricted. None of these conditions or procedures were observed in the signing of this secret agreement.

The President before restricting Canadian oil imports has to make a finding that Canadian oil imports were entering the United States in such volumes or under such circumstances that they threaten to impair the national security. No such determination was made. As a matter of fact, the President recognized that Canadian oil was a secure source in the published proclamation.

Because the power to limit imports is so important, Congress established some strict procedures which the President must follow before limiting imports in order to prevent abuses of that power. These procedures were not followed in signing the secret agreement. Congress did not intend to allow the carefully defined conditions for imposition of import limitations to be circumvented by secret agreements!

Finally, the secret agreement itself makes no attempt to relate its restrictive provisions to the national security interests of the United States—the only grounds for imposing limitations. I think it is quite clear from the language of the document that the only purpose of the secret agreement was to protect the American producing industry against the competition of Canadian oil, whether or not such competition would adversely affect national security. For example, the Canadian Government will request consultation regarding stipulated export levels, "only when it is satisfied that the United States customers of Canadian feedstocks have exercised every effort to secure reasonably available United States domestic supplies of feedstock and that established United States customers are not unduly expanding their market area or their share of the established market."

Such protectionist provisions are apparently controlling, regardless of their effect on the total national security interest. No attention is given to the strategic importance of vigorous and expanding oil refining and related chemical operations suitably dispersed, to the need to develop internal continental production and transport facilities, nor to the necessity for providing adequate fuel supplies for defense industries.

It would be difficult to imagine a more direct conflict with the admonition of the Ways and Means Committee in its report on the Trade Expansion Act:

> The interest to be safeguarded is the security of the Nation, not the output or profitability of any plant or industry except as these may be essential to the national security.

When this secret agreement came to light, I could not believe it. I asked the State Department which signed it and the Interior Department which administers the mandatory oil import program for an explanation.

I received a letter from the State Department indicating the reason for the secret agreement was "equity." While "equity" is a grand and noble concept, our Constitution has delegated the primary authority for defining "equity" to Congress. Congress has acted in this instance and passed a law. The State Department, thus, must operate within the bounds of "equity" as defined by Congress, not their own vague concepts of what "equity" should be.

The law in this case as well as the official implementation of that law is quite clear. The only legal basis for limiting imports is national security. And, even the State Department response indicated that Canadian oil was a secure source of supply.

As a matter of fact, this secret agreement actually impairs our national security. During the 6-day war in 1967, the last interruption in world oil supplies, Canada had over a million barrels a day in excess capacity which could not reach the market because there was not enough pipeline capacity to transport it. And, unless Canadian oil has access to U.S. markets there is no incentive to build the necessary pipelines. We all know that oil delivered by pipeline is far more secure than oil which must come from our domestic offshore wells. Why then should we discriminate against Canadian oil which comes into this country by overland pipeline? If national security is really the underlying theme of the mandatory oil import program, the development of such oil should be encouraged.

Moreover, in a period when the domestic price for crude oil is increasing at a rapid pace, the secret agreement denies U.S. refiners the advantage of the lower, relatively stable prices for Canadian imports. This is having an adverse effect on consumers in the Midwest where Canadian oil could be economically transported. Further, the secret agreement has the effect of bestowing a totally unwarranted competitive advantage on certain favored companies which are now obtaining Canadian oil in the Midwest. Thirteen refiners, including giants of the industry, have a monopoly on the importation of Canadian crude oil east of the Rockies. This monopoly is guaranteed by the secret agreement, which provides that Canadian oil is not to be sold to any new customers until the needs of existing customers have been satisfied. There plainly is no conceivable national security justification for fostering a permanent monopoly in the importation of inexpensive Canadian oil for 13 favored companies.

Furthermore, the secret agreement contains an embargo on shipments of Canadian oil to Chicago area refineries. This has resulted in a severe discrimination against a number of small refiners which, even under normal conditions, are at a competitive disadvantage vis-a-vis the major, integrated oil companies with all their tax advantages. For example, one small refiner in the Chicago area suffered additional costs of more than $250,000 in the first 3 months of 1969 alone because it was unable to obtain a reasonable amount of Canadian oil. This damage would be greater today because the major oil companies, in order to get a larger depletion allowance, have raised their domestic oil prices, thus, increasing the cost differential between Canadian and domestic oil. The delivered cost of domestic crude oil to the Chicago area is now more than 50 cents a barrel more expensive than the comparable cost of Canadian oil. Obviously, this creates a disastrous competitive situation for a small company, when even small refineries use many thousands of barrels of oil a day. Smaller refiners unable to obtain Canadian oil will increasingly be squeezed in competing with the major oil companies favored by special privileges under the secret agreement and the tax shelters open only to the large integrated oil compa-

nies. No national security justification, if any did in fact exist, could warrant perpetuation of these inequities.

How then could the State Department negotiate and sign such a secret agreement? I have asked that question of both the State and Interior Departments but still do not have a satisfactory answer. However, Mr. President, I think that you can only appreciate the full irony of the situation when you have seen the correspondence and the secret agreement. Thus, I ask unanimous consent to have them printed in the RECORD at this point.

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

The material, ordered to be printed in the RECORD, is as follows:

DEPARTMENT OF STATE,
Washington, D.C., May 1, 1969.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: In your letter to Secretary Rogers of April 16, you asked for information concerning the 1967 United States-Canadian Oil Agreement.

This Agreement is closely related to the Mandatory Oil Import Program (MOIP) instituted in 1959 under the national security provision of the Trade Agreements Extension Act of 1958. The purpose of the program is to ensure a viable domestic petroleum industry and thus to avoid overdependence on oil imports which might be cut off in an emergency. Since the national security considerations are not entirely the same in the case of overland imports, it was decided to exempt Canada from the import restrictions.

Because of this exemption there was a rapid growth in Canadian oil exports to the United States. By 1967 it had become clear that if this growth continued, Canadian oil would soon absorb the entire increment of growth available to foreign suppliers under the MOIP. Venezuela—a traditional, secure supplier of oil with a friendly, democratic government—would have been particularly hard hit by this development. In the interest of equity, therefore, we worked out the Canadian agreement which called for a voluntary limitation of exports.

Although the provisions of the Agreement were generally known, its exact text remained privileged at the request of the Canadian Government until late last February. At that time Canada agreed to release the text of the Agreement for use in connection with the legal proceedings relating to Canadian oil.

As you know, the Administration has initiated a broad review of the oil import problem. The task force will consider the question of Canadian imports along with all other aspects of our import policy. So as not to prejudice the results of this review, we have told the Canadians we wish to keep the voluntary agreement in force for the time being.

If I can be of further assistance, please do not hesitate to let me know.

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary for Congressional Relations.

U.S. SENATE,
Washington, D.C., May 23, 1969.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: On April 16, 1969 I requested an explanation for the secret agreement which we signed with Canada limiting the importation of Canadian oil. I gather from the Department's response that the reason for signing this secret agreement was that if the importation of Canadian oil were not limited then Venezuelan oil, another secure source of supply, would have been shut out of the United States market.

The answer raises three questions in my mind: First, if both Venezuelan and Canadian oil are secure sources of supply, why do we limit their importation? The only basis for limiting the importation of oil is to protect our national security. Yet, it seems to me, if we limit the importation of oil from secure sources, we impair our national security because in time of national emergency we would not be able to tap their excess capacity which would otherwise be available to us. There would be no means to transport the increased production to the United States.

Secondly, I would like to know what was the legal basis for signing this secret agreement with Canada. The only legislative basis for limiting oil imports is "national security", not "equity". You have indicated to me that Canadian oil is a secure source and this was officially recognized by granting an exception to Canadian oil from the restrictions of the Mandatory Oil Import Program. Yet, the only basis for signing this secret agreement you indicated to me in your letter was "equity".

Finally, I ask in my original letter why the secret agreement discriminates against the Chicago oil market. I still have not received an explanation.

Sincerely,

WILLIAM PROXMIRE.

DEPARTMENT OF STATE,
Washington, D.C., June 17, 1969.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: The Secretary has asked me to reply to your letter dated May 23 which posed questions about the agreement between the United States and Canada on oil imports.

The basic rationale behind the Mandatory Oil Imports Program was national security, as you have noted. The MOIP has tried and has been largely successful in maintaining a domestic industry capable of meeting our fuel needs in time of emergency. The primary means for achieving this end has been a limitation on imports of oil to 12.2 percent of domestic crude oil production.

Imports from Canada were initially exempt from the controls and they were not included in this limitation. When the program began, these imports were not important, only 56,000 barrels per day in 1959 into Districts I–IV, but they grew rapidly, displacing American production. In 1963 after Canadian exports to the United States had reached 115,000 barrels per day, the Oil Imports Administration began to count Canadian oil in the controlled imports without, however, placing restrictions on imports from Canada. The immediate result was that Canadian oil displaced imports from overseas rather than domestic oil. Canadian exports continued to grow rapidly and by 1967 had reached 253,000 barrels per day. By that time they were increasing at a rate greater than the total growth in imports. Other off-shore suppliers, notably Venezuela, faced an absolute decline in their exports to the United States.

It was in this context that an agreement was reached with Canada in 1967 to limit Canadian exports to the United States. Canada's exports were still unlicensed and Canada's special position as an overland supplier was still recognized; Canada was permitted to increase its exports to the United States by 26,000 barrels per day in 1968 and in each subsequent year through 1971. This was about two-thirds of the growth in our imports; the other third remained for Venezuela and all other exporters combined.

As long as Canadian oil is considered within the quota imports and Canadian crude oil prices are somewhat lower than domestic oil, unrestricted access of Canadian oil to our markets would mean a displacement of the relatively low-cost Venezuelan and Eastern hemisphere oils. While this would benefit those importers along the Canadian border who use Canadian oil, it would have an adverse effect on the large number of other importers who do not have physical access to Canadian oil and who would have their allocations for imports from overseas reduced. There would also be serious disruptions in the economy of Venezuela, our largest supplier of petroleum.

With respect to the legal basis for the 1967 agreement with Canada, section 2 of the Act of July 1, 1954, as amended (72 Stat. 678), and section 232 of the Trade Expansion Act of 1962 (76 Stat. 877) authorize import limitations in certain circumstances. Pursuant to these sections, findings and determinations have been made that adjustments in the imports of petroleum were neecssary so that such imports would not threaten to impair the national security, and Proclamation 3279 (24 F.R. 1781) was issued and from time to time amended. The agreement with Canada was concluded in implementation of this legislation and Proclamation.

In additon the President has constitutional authority in the conduct of foreign relations to regulate physical connections, such as pipelines, between the United States and a foreign country, and also to conclude executive agreements in harmony with United States domestic law.

Your letter of May 23 also asks the reasons behind the specific provision in the United States-Canadian agreement stating that no sales would be made in the Chicago area prior to 1970. There were several reasons for this. First of all, the original Canadian request for increasing the capacity of the Interprovincial Pipeline by construction of a "loop" through Chicago to Ontario, where the original line re-entered Canada, was for the purpose of transporting more oil to the Ontario area, not for delivery to the United States. Secondly, an important addition to our domestic pipeline system, Capline, was then under construction, and it was expected that Capline would be able to supply the Chicago area's growing needs during its initial period of operation. This has in fact proved true. The third reason was that we anticipated a tight supply situation for traditional Canadian customers, whose demands would be rising at the same time there would be a cut-back in the rate of Canadian export growth. We considered this situation would be difficult enough as it was without added pressures from new Chicago customers.

I have explained in some detail how the present system evolved and what situations existed when the notes were exchanged with Canada. As I indicated in my previous letter, the Administration is reviewing the entire oil import program. The oil import review task force will consider the question of imports of Canadian oil along with all other aspects of our import policy. It is therefore possible that changes will be made in our import program which will affect Canada, but in the meantime we expect Canada to abide by the 1967 understanding.

I hope the foregoing amplifies my earlier letter to you. If I can be of any further assistance, please do not hesitate to let me know.

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary for Congressional Relations.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 9, 1969.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: Thank you for your letter of April 16 concerning overland exempt oil imports from Canada. We regret our delay in replying.

We are enclosing a copy of a memorandum of the agreement to which your letter refers. You will note the agreement provides for an orderly increase in Canadian exports into Districts I–IV commensurate with the anticipated growth of the domestic market.

The Interprovincial Pipeline was proposed as a complete loop via the Chicago area from Superior, Wisconsin to Ontario, Canada, and it was upon this basis that the Presidential Permit for a border crossing was approved. The restriction on deliveries into the Chicago area until 1970 was to assure that oil delivered from this pipeline would not cause a severe short term disruption of supply patterns during the construction stage.

The present oil import program has given Canadian oil imports special recognition with regard to national security. Canadian oil has, accordingly, received preferential treatment as compared to overseas imports and, as a result, Canadian imports have grown by over 500 percent since the start of the oil program. In fact, Canadian imports into Districts I through IV have been growing each year more than the total growth of imports in the United States under the 12.2 formula. Thus, imports from other Western Hemisphere countries have not experienced a corresponding growth.

The following tabulation indicates the recent trend in exports of Canadian oil to the United States:

CANADIAN OVERLAND OIL IMPORTS

[Thousand barrels daily]

Year	Districts I–IV		District V		Total actual
	Estimated	Actual	Estimated	Actual	
1965 (1st ½)	155	165	141	151	316
1965 (2d ½)	169	181	155	150	331
1966	180	212	155	172	384
1967	225	253	144	196	449
1968	280	328	135	176	504
1969:					
January	306	370	181	193	563
February	306	400	181	214	614

At the present time refineries directly connected to crude pipelines from Canada have a total capacity of over one and a half million barrels per day. Canadian imports could easily increase another half a million barrels a day or more over present levels and, thereby, almost eliminate present imports of crude oil from other countries to the East Coast. This in turn would create economic problems in countries which have been supplying oil to the United States and interrupt past trading relationships. It would also create inequities with regard to refineries in the United States since present import quotas would be greatly reduced or eliminated. This points up that under the present import program, overseas imports into the East Coast are distributed to all refineries in the country East of the Rockies (Districts I–IV), whereas the economic advantage of Canadian imports into the Northern area of the United States accrues directly to the refinery importing them. This, in turn, gives such refineries an incentive to increase imports of Canadian oil even though this reduces overseas imports into the East Coast.

It is our view that the growth rate of Canadian imports must be related to the domestic demand growth and the requirement for U.S. markets of other friendly oil exporting nations in order to maintain stable relationships with all exporting nations and to prevent refiners in one geographical area receiving inequitable benefits at the expense of other refiners throughout the nation. For these reasons we will urge compliance with the agreement within the framework of the present oil import program, which, as you know, currently is under review by an executive office task force.

Sincerely yours,

WALTER J. HICKEL,
Secretary of the Interior.

TEXT OF AN UNDERSTANDING BETWEEN THE UNITED STATES AND CANADA REGARDING OVERLAND OIL IMPORTS FROM CANADA TO THE UNITED STATES, SEPTEMBER 25, 1967

The Canadian Ambassador presents his compliments to the Secretary of State and has the honor to refer to recent discussions between Canadian and United States officials and recent talks between the Honorable Jean-Luc Pepin, Minister of Energy, Mines, and Resources, the Honorable Stewart Udall, Secretary of the Interior, and Anthony M. Solomon, Assistant Secretary of State for Economic Affairs, regarding Canadian levels of oil exports and the proposed looping of the Interprovincial Pipeline via Chicago.

The Ambassador has been authorized to inform the United States Government that the Canadian Government endorses the following arrangements:

(1) It will ensure, short of imposing formal export controls, that exports of refinery feedstocks, as currently defined by the National Energy Board of Canada as including crude oil, condensate and butanes, to districts I–IV do not exceed 280,000 b/d in 1968.

(2) It will on a similar basis ensure that the growth rates of exports of refinery feedstocks to District I–IV during the period 1969 through 1971 will not exceed 26,000 b/d per annum.

(3) It assures the United States Government that—

(a) The proposed Interprovincial Pipe Line Company's pipeline via Chicago will be a complete loop from Superior, Wisconsin to Ontario as outlined to United States officials

(b) The economic viability of the loop in the initial period is not dependent upon new customer outlets, and

(c) No sales will be made in the Chicago area prior to 1970.

(4) It assures the United States Government that it has been and continues to be the Government of Canada's policy to avoid disruption of United States markets and that it will exert every effort to ensure that Canadian exports of crude oil do not displace local production of crude oil in those states served by Canadian exports.

(5) It assures the United States Government that the growth needs of existing customers will be satisfied before additional petroleum volumes available from either growth in Canadian exports or from shutdowns of United States refineries now using Canadian crude, are directed toward development of new markets.

(6) It is understood and agreed that the above arrangements are contingent upon the issuance of a Presidential Permit for a border crossing associated with the construction of a loop line through Chicago and are subject to the following conditions and understandings:

(a) Only in the event of exceptional or emergency circumstances leading to changes in United States supply patterns may exports, pursuant to mutual agreement, exceed the specified limits made under the above commitments.

(b) At any time at the request of either government the two governments would consult with respect to any matter relating to the export of petroleum to the United States. In this regard the Government of Canada would request consultations regarding the above export levels only when it is satisfied that United States customers of Canadian feedstocks have exercised every effort to secure reasonably available United States domestic supplies of feedstock and that established United States customers are not unduly expanding their market area or their share of the established market.

(c) Any change in the United States mandatory oil import control program relevant to the commitments made by the Government of Canada, such as a change in the 12.2 per cent limitation would, of course, be the subject of consultation and possible changes in the above commitments and levels.

The Government of Canada would appreciate confirmation that these arrangements are satisfactory to the Government of the United States.

The Canadian Ambassador wishes to avail himself of this opportunity to renew to the Secretary of State the assurances of his highest consideration.

A. E. RITCHIE.

Mr. KENNEDY. Mr. President, I want to commend the Senator from Wisconsin on his most lucid and compelling presentation of the facts surrounding the secret understanding on oil imports between the United States and Canadian Governments.

This agreement raises the most serious issues of legality, propriety, and policy. I have myself tried in the course of our oil hearings in the Antitrust Subcommittee to elicit some explanation of the logic of this arrangement, and the answers I have received only convince me more that the agreement is contrary to the public interest.

In an effort to obtain an understanding of the legal issues involved, I wrote to the Attorney General exactly 1 month ago today and posed the following questions:

Under what constitutional authority did the U.S. Government act?

Under what congressional act or delegation of authority did the U.S. Government act?

Under what provision of Proclamation 3279 did the U.S. Government act?

Is the understanding consistent with the General Agreement on Tariffs and Trade?

I also note that section 5 in effect limits the recipient of oil to existing customers. Knowing of the concern of your Department with limitations on competition, I would appreciate your opinion as to whether this provision violates general antitrust policies.

I ask unanimous consent that a copy of the entire letter be presented in the RECORD. As yet I have received no answer to this letter, but since the area is a complex one, I am hopeful that the delay is only an indication that the answers will be responsive and complete.

Certainly this kind of agreement

bears the closest scrutiny, and the procedures which enable it to be arrived at in secret deserve the most searching review.

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

MAY 23, 1969.

Hon. JOHN N. MITCHELL,
Attorney General,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: Enclosed is a copy of a note dated September 25, 1967, which formalizes a secret Understanding between the United States and Canadian governments. This note, which first became public two months ago, sets forth assurances by the Canadian government that it will control to specified limits the quantity of oil exported to the United States from Canada. These assurances were required of the Canadian government as conditions for the issuance of a Presidential permit for a border crossing associated with a proposed pipeline loop.

I would appreciate your opinion as to the legality of this Understanding, and specifically, answers to the following questions:

Under what constitutional authority did the U.S. Government act?

Under what Congressional act or delegation of authority did the U.S. Government act?

Under what provision of Proclamation 3279 did the U.S. Government act?

Is the Understanding consistent with the General Agreement on Tariffs and Trade?

I also note that Section 5 in effect limits the recipient of oil to existing customers. Knowing of the concern of your Department with limitations on competition, I would appreciate your opinion as to whether this provision violates general anti-trust policies.

In view of your personal interest in and appreciation of the need to adhere to procedural safeguards, I look forward to having your opinion of this secret Understanding.

Sincerely,

EDWARD M. KENNEDY.

ORDER OF BUSINESS

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

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

THE MILITARY-INDUSTRIAL COMPLEX

Mr. TYDINGS. Mr. President, there is no issue which concerns thoughtful Americans more than the problem of realistic military budgets and the problem of the proper relationship among the Defense Department, defense procurement, Congress, and the budget processes of our Nation.

This month, two excellent theses relating to this issue have made their appearance in print.

The first is an article published in Harper's magazine, written by John Kenneth Galbraith, former Ambassador to India and adviser of Presidents. The second article was published in the New York Times Magazine on yesterday, June 22, written by Richard F. Kaufman, a member of the staff of the Joint Economic Subcommittee on Economy in Government, which is headed by the Senator from Wisconsin (Mr. PROXMIRE). The substance of his article relates to a prophetic statement of the late President Eisenhower:

We must guard against unwarranted influence by the military-industrial complex.

Mr. President, I ask unanimous consent to have both these articles printed in the RECORD.

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

[From Harper's magazine, June 1969]

HOW TO CONTROL THE MILITARY

(By John Kenneth Galbraith [1])

In Janurary as he was about to leave office, Lyndon Johnson sent his last report on the economic prospect to the Congress. It was assumed that, in one way or another, the Vietnam war, by which he and his Administration had been destroyed, would come gradually to an end. The question considered by his economists was whether this would bring a decrease or an increase in military spending. The military budget for fiscal 1969 was $78.4 billions; for the next year, including pay increases, it was scheduled to be about three billions higher. Thereafter, assuming peace and a general withdrawal from Asia, there would be a reduction of some six or seven billions. But this was only on the assumption that the Pentagon did not get any major new weapons—that it was content with what had already been authorized. No one really thought this possible. The President's economists noted that plans already existed for "a package" consisting of new aircraft, modern naval vessels, defense installations, and "advanced strategic and general purpose weapons systems" which would cost many billions. This would wipe out any savings from getting out of Vietnam. Peace would now be far more expensive than war.

With Richard Nixon the prospect for increased arms spending would seem superfically to be better. During the election campaign he promised to establish a clear military superiority over the Soviets, an effort that he could not believe would escape their attention. Their response would also be predictable and would require a yet larger effort here. (At his first press conference Mr. Nixon retreated from "superiority" to "sufficiency.")

Melvin Laird, the new Secretary of Defense, while in the Congress was an ardent spokesman for the military viewpoint, which is so say for military spending. And his Under Secretary of Defense, David Packard, though the rare case of a defense contractor who had spoken for arms control, was recruited from the very heart of the military-industrial complex.

Just prior to Mr. Nixon's inauguration the Air Force Association, the most eager spokesman for the military and its suppliers, said happily that "If the new Administration is willing to put its money where its mouth is in national defense some welcome changes are in the offing." And speaking to a reporter, J. Leland Atwood, president and chief executive officer of North American Rockwell, one of the half-dozen biggest defense firms, sized up the prospect as follows: "All of Mr. Nixon's statements on weapons and space are very positive. I think he has perhaps a little more awareness of these things than some people we've seen in the White House." Since no one had previously noticed the slightest unawareness, Mr. Atwood considered the prospect very positive indeed.

Yet he could be wrong. Browning observed of Jove that he strike the Titans down when they reach the peak—"when another rock would crown the work." When I started work on this paper some months ago, I hazarded the guess that the military power was by way of provoking the same public reaction as did the Vietnam war. Now this is no longer in doubt. If he remains *positive*, the military power will almost certainly do for President Nixon what Vietnam did for his predecessor. But it might also lead him to a strenuous effort to avoid the Johnson fate. Mr. Nixon has not, in the past, been notably indifferent to his political career. The result in either case would be an eventual curb on the military power—either from Mr. Nixon or his successor.

Or so it would seem. What is clear is that a drastic change is occurring in public attitudes toward the military and its industrial allies which will not for long be ignored by politicians who are sensitive to the public mood. And from this new political climate will come the chance for reasserting control.

The purpose of this article is to see the nature of the military power, assess its strengths and weaknesses, and suggest the guidelines for regaining control. For no one can doubt the need for doing so.

II

The problem of the military power is not unique; it is merely a rather formidable example of the tendency of our time. That is for organization, in an age of organization, to develop a life and purpose and truth of its own. This tendency holds for all great bureaucracies, both public and private. And their action is not what serves a larger public interest, their belief does not reflect the reality of life. What is done and what is believed are, first and naturally, what serve the goals of the bureaucracy itself. Action in the organization interest, or in response to the bureaucratic truth, can thus be a formula for public disservice or even public disaster.

There is nothing academic about this possibility. There have been many explanations of how we got into the Vietnam war, an action on which even the greatest of the early enthusiasts have now lapsed into discretion. But all explanations come back to one. It was the result of a long series of steps taken in response to a bureaucratic view of the world—a view to which a President willingly or unwillingly yielded and which, until much too late, was unchecked by any legislative or public opposition. This view was of a planet threatened by an imminent takeover by the unified and masterful forces of the Communist world, directed from Moscow (or later and with less assurance from Peking) and coming to a focus, however improbably, some thousands of miles away in the activities of a few thousand guerrillas against the markedly regressive government of South Vietnam.

The further bureaucratic truth that were developed to support this proposition are especially sobering. What was essentially a civil war between the Vietnamese was converted into an international conflict with rich ideological portend for all mankind. South Vietnamese dictators became incipient Jeffersonians holding aloft the banners of an Asian democracy. Wholesale graft in Saigon became an indispensable aspect of free institutions. An elaborately rigged election became a further portend of democracy. One of the world's most desultory and impermanent armies became, always potentially, a paragon of martial vigor. Airplanes episodically bombing open acreage or dense jungle became an impenetrable barrier to men walk-

[1] J. K. Galbraith has written more than one man's share of the influential books of this era, including "American Capitalism" and "The Affluent Society" (just reissued in a new edition by Houghton Mifflin). He was a supporter of Adlai Stevenson and John F. Kennedy, was Ambassador to India 1961–63, and continues to teach at Harvard as Paul M. Warburg Professor of Economics.

ing along the ground. An infinity of reverses, losses, and defeats became victories deeply in disguise. Such is the capacity of bureaucracy to create its own truth.

There was nothing, or certainly not much, that was cynical in this effort. Most of the men responsibly involved accepted the myth in which they lived a part. For from the inside it is the world outside which looks uninformed, perverse, and very wrong. Throughout the course of the war there was bitter anger in Washington and Saigon over the inability of numerous journalists to see military operations, the Saigon government, the pacification program, the South Vietnam army in the same rosy light as did the bureaucracy. Why couldn't they be indignant instruments of the official belief—like Joseph Alsop?

As many others have observed, the epitome of the organization man in our time was Secretary of State Dean Rusk. Few have served organization with such uncritical devotion. A note of mystification, even honest despair, was present in his public expression over the inability of the outside world to accept the bureaucratic truths just listed. Only the eccentrics, undisciplined or naive, failed to accept what the State Department said was true. His despair was still evident as he left office, his career in ruins, and the Administration of which he was the ranking officer destroyed by action in pursuit of these beliefs. There could be no more dramatic—or tragic—illustration of the way organization captures men for its truths.

But Vietnam was not the first time men were so captured—and the country suffered. Within this same decade there was the Bay of Pigs, now a textbook case of bureaucratic self-deception. Organization needed to believe that Castro was toppling on the edge. Communism was an international conspiracy; hence it could have no popular local roots; hence the Cuban people would welcome the efforts to overthrow it. Intelligence was made to confirm these beliefs, for if it didn't it was, by definition, defective information. And, as an unpopular tyranny, the Castro government *should* be overthrown. Hence the action, thus the disaster. The same beliefs played a part in the military descent, against largely nonexistent Communists, on the Dominican Republic.

But the most spectacular examples of bureaucratic truth are those that serve the military power—and its weapons procurement. These have not yet produced anything so dramatic as the Vietnam, Bay of Pigs, or Dominican misadventures but their potential for disaster is far greater. These beliefs and their consequences are worth specifying in some detail.

There is first the military belief that whatever the dangers of a continued weapons race with the Soviet Union these are less than those of any agreement that offers any perceptible opening for violation. If there is such an opening the Soviets will exploit it. Since no agreement can be watertight this goes far to protect the weapons race from any effort at control.

Secondly, there is the belief that the conflict with Communism is man's ultimate battle. Accordingly, one would not hesitate to destroy all life if Communism seems seriously a threat. This belief allows acceptance of the arms race no matter how dangerous. The present ideological differences between industrial systems will almost certainly look very different and possibly rather trivial from a perspective of fifty or a hundred years hence if we survive. Such thoughts are eccentric.

Third, the national interest is total, that of man inconsequential. So even the prospect of total death and destruction does not deter us from developing new weapons systems if some thread of national interest can be identified in the outcome. We can accept 75 million casualties if it forces the opposition to accept 150 million. This is the unsentimental calculation. Even more unsentimentally, Senator Richard Russell, the leading Senate spokesman of the military power, argued on behalf of the Army's Sentinel Anti-Ballistic Missile System (ABM) that, if only one man and one woman are to be left on earth, it was his deep desire that they be Americans. It was part of the case for the Manned Orbiting Laboratory (MOL) that it would maintain the national position in the event of extensive destruction down below.

Such, not secretly but as they have been articulated, are the organization truths of the military power. The beliefs that got us into (and keep us in) Vietnam in their potential for disaster pale as compared with these doctrines. We shall obviously have accomplished little if we get out of Vietnam but leave unchecked in the government the capacity of this kind of bureaucratic truth. What, in tangible form, is the organization which avows these truths?

III

It is an organization or a complex of organizations and not a conspiracy. Although Americans are probably the world's least competent conspirators—partly because no other country so handsomely rewards in cash and notoriety the man who blows the whistle on those with whom he is conspiring—we have a strong instinct for so explaining that of which we disapprove. In the conspiratorial view, the military power is a collation of generals and conniving industrialists. The goal is mutual enrichment; they arrange elaborately to feather each other's nest. The industrialists are the *deux ex machina*; their agents make their way around Washington arranging the payoff. If money is too dangerous, than alcohol, compatible women, more prosaic forms of entertainment or the promise of future jobs to generals and admirals will serve.

There is such enrichment and some graft. Insiders do well. H. L. Nieburg has told the fascinating story of how in 1954 two modestly paid aerospace scientists, Dr. Simon Ramo and Dr. Dean Woolridge, attached themselves influentially to the Air Force as consultants and in four fine years (with no known dishonesty) ran a shoe-string of $6,750 apiece into a multimillion-dollar fortune and a position of major industrial prominence.[2] (In 1967 their firm held defense contracts totaling $121 million.) Senator William Proxmire, a man whom many in the defense industries have come to compare unfavorably to typhus, has recently come up with a fascinating contractual arrangement between the Air Force and Lockheed for the new C–5A jet transport. It makes the profits of the company greater the greater its costs in filling the first part of the order, with interesting incentive effects. A recent Department of Defense study reached the depressing conclusion that firms with the poorest performance in designing highly technical electronic systems—and the failure rate was appalling—have regularly received the highest profits. In 1960, 691 retired generals, admirals, naval captains, and colonels were employed by the ten largest defense contractors—186 by General Dynamics alone. A recent study made at the behest of Senator Proxmire found 2,072 employed in major defense firms with an especially heavy concentration in the specialized defense firms.[3] It would be idle to suppose that presently serving officers—those for example on assignment to defense plants—never have their real income improved by the wealthy contractors with whom they are working, forswear all favors, entertain themselves, and sleep austerely alone. Nor are those public servants who show zeal in searching out undue profits or graft reliably rewarded by a grateful public. Mr. A. E. Fitzgerald, the Pentagon management expert who became disturbed over the C–5A contract with Lockheed and communicated his unease, and its causes to the Proxmire Committee, had his recently acquired civil-service status removed and was the subject of a fascinating memorandum (which found its way to Proxmire) outlining the sanctions appropriate to his excess of zeal. Pentagon officials explained that Mr. Fitzgerald had been given his civil-service tenure as the result of a computer error (the first of its kind) and the memorandum on appropriate punishment was a benign gesture of purely scholarly intent designed to specify those punishments against which such a sound public servant should be protected.

Nonetheless the notion of a conspiracy to enrich and corrupt is gravely damaging to an understanding of the military power. It causes men to look for solutions in issuing regulations, enforcing laws, or sending people to jail. It also, as a practical matter, exaggerates the role of the defense industries in the military power—since they are the people who make the most money, they are assumed to be the ones who, in the manner of the classical capitalist, pull the strings. The armed services are assumed to be in some measure their puppets. The reality is far less dramatic and far more difficult of solution. The reality is a complex of organizations pursuing their sometimes diverse but generally common goals. The participants in these organizations are mostly honest men whose public and private behavior would withstand public scrutiny as well as most. They live on their military pay or their salaries as engineers, scientists, or managers or their pay and profits as executives and would not dream of offering or accepting a bribe.

The organizations that comprise the military power are the four Armed Services, and especially their procurement branches. And the military power encompasses the specialized defense contractors—General Dynamics, McDonnell Douglas, Lockheed, or the defense firms of the agglomerates—of Ling-Temco-Vought or Litton Industries. (About half of all defense contracts are with firms that do relatively little other business.) And it embraces the defense division of primarily civilian firms such as General Electric or AT&T. It draws moral and valuable political support from the unions. Men served these organizations in many, if not most, instances, because they believe in what they are doing—because they have committed themselves to the bureaucratic truth. To find and scourge a few malefactors is to ignore this far more important commitment.

The military power is not confined to the Services and their contractors—what has come to be called the military-industrial complex. Associate membership is held by the intelligence agencies which assess Soviet (or Chinese) action or intentions. These provide, more often by selection than by any dishonesty, the justification for what the Services would like to have and what their contractors would like to supply. Associated also are Foreign Service Officers who provide a civilian or diplomatic gloss to the foreign-policy positions which serve the military need. The country desks at the State Department, a greatly experienced former official and ambassador has observed, are often "in the hip pocket of the Pentagon—lock, stock, and barrel, ideologicaly owned by the Pentagon."[4]

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[2] *In the Name of Science* (Chicago, Quadrangle Press, 1966). This is a book of first-rate importance which the author was so unwise as to publish some three years before concern for the problems he discusses became general. But perhaps he made it so.

[3] General Dynamics 113, Lockheed 210, Boeing 169, McDonnell Douglas 141, North American Rockwell 104, Ling-Temco-Vought 69. All of these firms are heavily specialized to military business; General Dynamics, Lockheed, McDonnell Douglas and North American Rockwell almost completely so.

[4] Ralph Dungan, formerly White House aide to Presidents Kennedy and Johnson and former Ambassador to Chile. Quoted in George Thayer, *The War Business* (Simon

Also a part of the military power are the university scientists and those in such defense-oriented organizations as RAND, the Institute for Defense Analysis, and Hudson Institute who think professionally about weapons and weapons systems and the strategy of their use. And last, but by no means least, there is the organized voice of the military in the Congress, most notably on the Armed Services Committees of the Senate and House of Representatives. These are the organizations which comprise the military power.

The men who comprise these organizations call each other on the phone, meet at committee hearings, serve together on teams or task forces, work in neighboring offices in Washington or San Diego. They naturally make their decisions in accordance with their view of the world—the view of the bureaucracy of which they are a part. The problem is not conspiracy or corruption but unchecked rule. And being unchecked, this rule reflects not the national need but the bureaucratic need—not what is best for the United States but what the Air Force, Army, Navy, General Dynamics, North American Rockwell, Grumman Aircraft, State Department representatives, intelligence officers, and Mendel Rivers and Richard Russell believe to be best.

In recent years Air Force generals, perhaps the most compulsively literate warriors since Caesar, have made their views of the world scene a part of the American folklore. These in all cases serve admirably the goals of their Service and the military power in general. Similarly with the other participants.

Not long ago, Bernard Nossiter, the brilliant economics reporter of the Washington *Post*, made the rounds of some of the major defense contractors to get their views of the post-Vietnam prospect. All, without exception, saw profitable tension and conflict. Edward J. Lefevre, the vice-president in charge of General Dynamics' Washington office, said "One must believe in the long-term threat." James J. Ling, the head of Ling-Temco-Vought, reported that "Defense spending has to increase in our area because there has been a failure to initiate—if we are not going to be overtaken by the Soviets." Samuel F. Downer, one of Mr. Ling's vice-presidents, was more outspoken. "We're going to increase defense budgets as long as those bastards in Russia are ahead of us." A study of the Electronics Industries Association also dug up by Mr. Nossiter (to whom I shall return in a moment) discounted the danger of arms control, decided that the "likelihood of limited war will increase" and concluded that "for the electronic firms, the outlook is good in spite [sic] of [the end of hostilities in] Vietnam."

From the foregoing beliefs, in turn, comes the decision on weapons and weapons systems and military policy generally. No one can tell where the action originates—whether the Services or the contractors initiate decisions on weapons—nor can the two be sharply distinguished. Much of the plant of the specialized defense contractors is owned by the government. Most of their working capital is supplied by the government through progress payments—payments made in advance of completion of the contract. The government specifies what the firm can and cannot charge to the government. The Armed Services Procurement Regulation states that "Although the government does not expect to participate *in every management decision*, it may reserve the right to review the contractor's management efforts. . . ." (Italics added.)

In this kind of association some proposals will come across the table from the military. Some will come back from the captive contractors. Nossiter asked leading contractors, as well as people at the Pentagon, about this. Here are some of the answers.

From John W. Bessire, General Manager for Pricing, General Dynamics, Fort Worth: "We try to foresee the requirements the military is going to have three years off. We work with their requirements people and therefore get new business."

From Richard E. Adams, Director of Advanced Projects, Fort Worth Division of General Dynamics, who thought the source was the military: "Things are too systematized at the Pentagon for us to invent weapons systems and sell them on a need."

On the influence of the military he added: "We know where the power is [on Capitol Hill and among Executive Departments]. There's going to be a lot of defense business and we're going to get our share of it."

From John R. Moore, President of Aerospace and Systems Group of North American Rockwell: "A new system usually starts with a couple of military and industry people getting together to discuss common problems."

After noting that most of his business came from requirements "established by the Defense Department and NASA," he concluded: "But it isn't a case of industry here and the government here. They are interacting continuously at the engineering level."

And finally from a high civilian in the Pentagon: "Pressures to spend more. . . . In part they come from the industry selling new weapons ideas and in part from the military here. Each military guy has his own piece, tactical, antisubmarine, strategic. Each guy gets where he is by pushing his particular thing."

He added: "Don't forget, too, part of it is based on the perception of needs by people in Congress."

The important thing is not where the action originates but in the fact that it serves the common goals of the military and the defense contractors. It is, in the language of labor relations, a sweetheart deal between those who sell to the government and those who buy. Once competitive bidding created an adversary relationship between buyer and seller sustained by the fact that, with numerous sellers, any special relationship with any one must necessarily provoke cries of favoritism. But modern weapons are bought overwhelmingly by negotiation and in most cases from a single source of supply. (In the fiscal year ending in 1968, General Accounting Office figures show that 57.9 per cent of the $43 billion in defense contracts awarded in that year was by negotiation with a single source of supply. Of the remainder 30.6 per cent was awarded by negotiation where alternative sources of supply had an opportunity to participate and only 11.5 per cent was open to advertised competitive bidding.)[5] Under these circumstances the tendency to any adversary relationship between the Services and their suppliers is minimal. Indeed, where there are only one or two sources of supply for a weapons system, the interest of the Services in sustaining a source of supply will be no less than that of the firm in question in being sustained.

Among those who spoke about the sources of ideas on weapons needs, no one was moved to suggest that public opinion played any role. The President, as the elected official responsible for foreign policy, was not mentioned. The Congress came in only as an afterthought. And had the Pentagon official who mentioned the Congress had been pressed, he would have agreed that its "perception of needs" is a revelation that almost always results from prompting by either the military or the defense industries. It was thus, for example, that the need for a new generation of manned bombers was perceived (and provided for) by Congress though repeatedly vetoed an unnecessary by Presidents Kennedy and Johnson. But in the past the role of the Congress has been overwhelmingly acquiescent and passive. As Senator Gaylord Nelson said in the Senate in February 1964: ". . . an established tradition . . . holds that a bill to spend billions of dollars for the machinery of war must be rushed through the House and the Senate in a matter of hours, while a treaty to advance the cause of peace, or a program to help the underdeveloped nations . . . guarantee the rights of all our citizens, or . . . to advance the interests of the poor must be scrutinized and debated and amended and thrashed over for weeks and perhaps months."

IV

We see here a truly remarkable reversal of the American political and economic system as outlined by the fathers and still portrayed to the young. That view supposes that ultimate authority—ultimate sovereignty—lies with the people. And this authority is assumed to be comprehensive. Within the ambit of the state the citizen expresses his will through the men—the President and members of the Congress—whom he elects. Outside he accomplishes the same thing by his purchases in the market. These instruct supplying firms—General Motors, General Electric, Standard Oil of New Jersey—as to what they shall produce and sell. But here we find the Armed Services or the corporations that supply them making the decisions and instructing the Congress and the public. The public accepts whatever is so decided and pays the bill. This is an age when the young are being instructed, in my view rightly although with unnecessary solemnity, to respect constitutional process and seek change within the framework of the established political order. And we find the assumed guardians of that order, men with no slight appreciation of their righteousness and respectability, calmly turning it upside down themselves.

How did this remarkable reversal in the oldest of constitutional arrangements come about? How, in particular, did it come about in a country that sets great store by individual and citizen rights and which traditionally has been suspicious of military, industrial, and bureaucratic power? How did it come to allow these three forces to assert their authority over a tenth of the economy and something closer to ten-tenths of our future?[6]

V

Six things brought the military-industrial bureaucracy to its present position of power. To see these forces is also to be encouraged by the chance for escape.

First there has been, as noted, the increasing bureaucratization of our life. In an economically and technologically complex society, more and more tasks are accomplished by specialists. Specialists must then have their knowledge and skills united by organization. Organization, then, as we have seen,

and Schuster). The appearance of the State Department as a full-scale participant in the military power may have been the hopefully temporary achievement of Secretary Rusk. Apart from a high respect for military acumen and need, he in some degree regarded diplomacy as subordinate to military purpose. In time such attitudes penetrate deeply into organization.

[5] Testimony of Elmer B. Staats, Comptroller General, before Senator Proxmire's Committee (November 11, 1968).

[6] I have argued elsewhere (*The New Industrial State*, Houghton Mifflin, 1967) that with increasing industrialization the sovereignty of the consumer or citizen yields to the sovereignty of the producer or public bureaucracy. Increasingly the consumer or citizen is made subordinate to their needs. I have been rather sharply challenged. But in the very important area of military production, about 10 per cent of the total we see that producer sovereignty is accepted and avowed. Not even my most self-confident critics would be wholly certain of my error here.

proceeds to assert its needs and beliefs. These will not necessarily be those of the individual or community.

In what Ralph Lapp has called the weapons culture, both economic and technological complexity are raised to the highest power. So, accordingly, are the scope and power of organization. So, accordingly, is the possibility of self-serving belief.

It is a power, however, which brings into existence its own challenge. The same technical and social complexity that requires organization requires that there be large numbers of trained and educated people. Neither these people nor the educational establishment that produces them are docile in the face of organization. So with organization come people who resist it—who are schooled to assert their individual beliefs and convictions. No modern military establishment could expect the disciplined obedience which sent millions (in the main lightly schooled lads from the farm) against the machine guns as late as World War I.

The reaction to organization and its beliefs may well be one of the most rapidly developing political moods of our time. Clearly it accounted for much of the McCarthy strength in the last year—for if Dean Rusk or General Westmoreland were the epitome of the organization man, Eugene McCarthy was its antithesis. Currently one sees it sweeping ROTC off the campuses—or out of the university curricula. It is causing recruiting problems for big business—and not alone the defense firms. One senses, if the draft survives, that it will cause trouble for the peacetime Armed Forces.

But so far the impressive thing is the power that massive organization has given to the military industrial complex and not the resistance it is arousing. The latter is for the future.

Second in importance in bringing the military-industrial complex to power were the circumstances and images of foreign policy in the late Forties, Fifties and early Sixties. The Communist world, as noted, was viewed as a unified imperium mounting its claim to every part of the globe. The postwar pressure on Eastern Europe and on Berlin, the Chinese revolution, and the Korean war, seemed powerful evidence in the case. And, after the surprisingly early explosion of the first Soviet atomic bomb, followed within a decade by the even more astonishing flight of the first Sputnik, it was easy to believe that the Communist world was not only politically more unified than the rest but technologically stronger as well.

The natural reaction was to delegate power and concentrate resources. The military Services and their industrial allies were given unprecedented authority—as much as in World War II—to match the Soviet technological initiative. And the effort of the nation's scientists (and other scholars) was concentrated in equally impressive fashion. None or almost none remained outside. Robert Oppenheimer was excluded, not because he opposed weapons development in general or the hydrogen bomb in particular, but because he thought the latter unnecessary and undeliverable. That anyone, on grounds of principle, should refuse his services to the Pentagon or Dow Chemical was nearly unthinkable. Social scientists responded eagerly to invitations to spend the summer at RAND. They devoted their winters to seminars on the strategy of defense and deterrence. The only question in this time was whether a man could get a security clearance. The extent of a man's access to secret matters measured his responsibility and influence in public affairs and prestige in the community.

The effect of this concentration of talent was to add to the autonomy and power of the organizations responsible for the effort. Criticism or dissent requires knowledge; the knowledgeable men were nearly all inside. The Eisenhower Administration affirmed the power of the military by appointing Secretaries of Defense who were largely passive except as they might worry on occasion about the cost. The Democrats, worrying about a nonexistent missile gap and fearing, as always, that they might seem soft on Communism, accorded the military more funds and power, seeking principally to make it more efficient.

This enfranchisement of the military power was in a very real sense the result of a democratic decision—it was a widely approved response to the seemingly fearsome forces that surrounded us. With time those who received this unprecedented grant of power came to regard it as a right. Where weapons and military decision were concerned, their authority was meant to be plenary. Men with power have been prone to such error.

Third, secrecy confined knowledge of Soviet weapons and responding American action to those within the public and private bureaucracy. No one else had knowledge, hence no one else was qualified to speak. Senior members of the Armed Services, their industrial allies, the scientists, the members of the Armed Services Committees of the Congress were in. It would be hard to imagine a more efficient arrangement for protecting the power of a bureaucracy. In the academic community and especially in Congress there was no small prestige in being a member of this club. So its influence was enhanced by the sense of belonging and serving. And, as the experience of Robert Oppenheimer and other less publicized persons showed, it was possible on occasion to exclude the critic or skeptic as a security risk.

Fourth, there was the disciplining effect of personal fear. A nation that was massively alarmed about the unified power of the Communist world was not tolerant of skeptics or those who questioned the only seemingly practical line of response. Numerous scientists, social scientists, and public officials had come reluctantly to accept the idea of the Communist threat. This history of reluctance could now involve the danger—real or imagined—that they might be suspected of past association with this all-embracing conspiracy. The late Senator Joseph R. McCarthy would not have been influential in ordinary times; but he and others saw or sensed the opportunity for exploiting national and personal anxiety. The result was further and decisive pressure on anyone who seemed not to concur in the totality of the Communist threat. (McCarthy was broken only when he capriciously attacked the military power.)

Fear provided a further source of immunity and power. Accepted Marxian doctrine holds that a cabal of capitalists and militarists is the cutting edge of capitalist imperialism and the cause of war. Anyone who raised a question about the military industrial complex thus sounded suspiciously like a Marxist. So it was a topic that was avoided by the circumspect. Heroism in the United States involves some important distinctions. It requires a man to stand up fearlessly, at least in principle, to the prospect for nuclear extinction. But it allows him to proceed promptly to cover if there is risk of being called a Communist, a radical, an enemy of the system. Death we must face but not social obloquy or political ostracism. The effect of such discriminating heroism in the Fifties and Sixties was that most potential critics of the military power were exceptionally reticent.

In 1961, in the last moments before leaving office, President Eisenhower gave his famous warning: "In the councils of government we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist." This warning was to become by a wide margin the most quoted of all Eisenhower statements. This was principally for the flank protection it provided for all who wanted to agree. For many years thereafter anyone (myself included) who spoke to the problem of the military power took the thoughtful precaution of first quoting President Eisenhower. He had shown that there were impeccably conservative precedents for our concern.

Fifth, in the Fifties and early Sixties the phrase "domestic priority" had not yet become a cliché. The civilian claim on federal funds was not, or seemed not, to be overpowering. The great riots in the cities had not yet occurred. The appalling conditions in the urban core that were a cause were still unnoticed. Internal migration had long been under way but millions were yet to come from the rural into the urban slums. Poverty had not yet been placed on the national agenda, with the consequence that we would learn how much and how abysmal it is. And promises not having been made to end poverty, expectations had not been aroused. The streets of Washington, D.C., were still safer than those of Saigon. Travel by road and commuter train was only just coming to a crawl. The cities' air and water were dirty but not yet lethally so.

In this innocent age, in 1964, taxes were reduced because there seemed to be danger of economic stagnation and unemployment from raising more federal revenue than could quickly be spent. The then Director of the Budget, Kermit Gordon, was persuaded that if an excess of revenue were available the military would latch on to it. Inflation was not a pressing issue. Military expenditures, although no one wished to say so, did sustain employment. Circumstances could not have been better designed economically speaking, to allow the military a clear run.

Sixth and finally, in these years, both conservative and liberal opposition to the military-industrial power was muted. Nothing could be expected, in principle, to appeal less to conservatives than a vast increase in bureaucratic power at vast cost. In an earlier age the reaction would have been apoplectic. Some conservatives in an older tradition—men genuinely concerned about the Leviathan State—were aroused. Ernest Weir, the head of National Steel and the foe of FDR and the New Deal, Alf M. Landon, the much-underestimated man who opposed Roosevelt in 1936, Marriner Eccles, banker and long-time head of the Federal Reserve, and a few others did speak out. But for most it was enough that the Communists—exponents of a yet more powerful state and against private property too—were on the other side. One accepted a lesser danger to fight a greater one. And, as always, when many are moderately aroused some are extreme. It became a tenet of a more extreme conservatism that civilians should never interfere with the military except to provide more money. Nor would there be any compromise with Communism. It must be destroyed. Their military doctrine, as Daniel Bell has said, was "that negotiation with the Communists is impossible, that anyone who discusses the possibility of such negotiation is a tool of the Communists, and that a 'tough policy'—by which, *sotto voce*, is meant a preventative war of a first strike—is the only means of forestalling an eventual Communist victory."[7] To an impressive extent, in the Fifties and Sixties this new conservatism, guided by retired Air Force Generals and the redoubtable Edward Teller, became the voice of all conservatism on defense policy.

The disappearance of liberal criticism was almost as complete—and even more remarkable. An association of military and industrial power functioning without restraint would have been expected to arouse liberal

[7] Quoted by Ralph E. Lapp in *The Weapons Culture* (Norton, 1968).

passion. So also the appropriation of public power for private purpose by defense contractors, some of them defining missions for the Services so as to require what they had to sell. But liberals did not react. Like conservatives they accepted a lesser threat to liberty to forestall a greater one. Also it was not easy for a generation that had asked for more executive power for FDR and his successors over conservative opposition to see danger in any bureaucracy or remedy in stronger legislative control. This was a too radical reversal of liberal form.

The generation of liberals which was active in the Fifties and Sixties had also been scarred by the tactics of the domestic Communists in politics and the trade-union movement. And members of this generation had seen what happened to friends who had committed themselves to the wartime alliance with the Soviets and had nailed their colors to its continuation after the war. Stalin had let them down with a brutal and for many a mortal thump. Those who escaped, or many of them, made common cause with the men who were making or deploying weapons to resist Communism, urging only, as good liberals, that there was a social dimension to the struggle. As time passed it was discovered that many good and liberal things—foreign aid, technical assistance, travel grants, fellowships, overseas libraries—could be floated on the communist threat. Men of goodwill became acomplished in persuading the more retarded to vote for foreign-aid legislation, not as a good thing in itself but as an indispensable instrument in the war against Communism. Who, having made this case, could then be critical of military spending for the same purpose?

Additionally in the Fifties and Sixties American liberals were fighting for the larger federal budget not for the things it bought but for the unemployment it prevented. Such a budget, with its stabilizing flow of expenditures and supported by personal income taxes which rose and fell with stabilizing effect, was the cornerstone of the New or Keynesian Economics. And this economics of high and expanding employment, in turn, was the cornerstone of the liberal position. As noted it was not easy for liberals to admit that defense expenditures were serving this benign social function; when asked they (*i.e.* we) always said that spending for education, housing, welfare, and civilian public works would serve just as well and be much welcomed as an alternative.

But there was then no strong pressure to spend for these better things. Accordingly it was not easy for liberals to become aroused over an arms policy which had such obviously beneficent effects on the economy.

By the early Sixties the liberal position was beginning to change. From comparatively early in the Kennedy Administration—the Bay of Pigs was a major factor in this revelation—it became evident that a stand would have to be made against policies urged by the military and its State Department allies—against military intervention in Cuba, military intervention in Laos, military intervention in Vietnam, an all-out fallout shelter program, unrestricted nuclear testing, all of which would be disastrous for the President as well as for the country and world. A visible and sometimes sharp division occurred between those who, more or less automatically, made their alliance with the military power, and those—Robert Kennedy, Adlai Stevenson, Theodore Sorensen, Arthur Schlesinger, Averell Harriman, and, though rendering more homage to the organizations of which they were a part, George Ball and Robert McNamara—who saw the dangers of this commitment. With the Johnson Administration this opposition disappeared or was dispersed. The triumph of those who allied themselves with the bureaucracy was the disaster of that Administration.

The opposition, much enlarged, then reappeared in the political theater. Suspicion of the military power in 1968 was the most important factor uniting the followers of Senators Kennedy, McCarthy, and McGovern. Along with the more specific and more important opposition to the Vietnam conflict, it helped to generate the opposition that persuaded Lyndon Johnson not to run. And the feeling that Vice President Humphrey was not sufficiently firm on this issue—that he belonged politically to the generation of liberals that was tolerant to the military-industrial power—unquestionably diluted and weakened his support. Conceivably it cost him the election.

VI

To see the sources of the strength of the military-industrial complex in the Fifties and Sixties is to see its considerably greater vulnerability now. The Communist imperium, which once seemed so fearsome in its unity, has broken up into bitterly antagonistic blocks. Moscow and Peking barely keep the peace. Fear in Czechoslovakia, Yugoslavia, and Romania is not of the capitalist enemy but the great Communist friend. The more intimate calculations of the Soviet High Command on what might be expected of the Czech (or for that matter the Romanian or Polish or Hungarian) army in the event of war in Western Europe must not be without charm. Perhaps they explain the odd military passion of the Soviets for the Egyptians. The Soviets have had no more success than has capitalism in penetrating and organizing the backward countries of the world. Communist and capitalist jungles are indistinguishable. Men of independent mind recognize that after twenty years of aggressive military competition with the Soviets our security is not greater and almost certainly less than when the competition began. And although in the Fifties it was fashionable to assert otherwise ("a dictator does not hesitate to sacrifice his people by the millions") we now know that the Soviets are as aware of the totally catastrophic character of nuclear war as we are—and more so than our more articulate generals.

These changes plus the adverse reaction to Vietnam have cost the military power its monopoly of the scientific community. This, in turn, has damaged its claim to a monopoly of knowledge including that which depends on security classification. Informed critics are amply available outside the military-industrial complex. When earlier this year Under Secretary of Defense Packard sought, in an earlier tradition, to discredit the opposition of Dr. Herbert A. York, former Director of Defense Research and Engineering, to the ABM, on the grounds that the latter did not have access to secret information, the effort backfired. The only person whose credibility was damaged was Secretary Packard. In consequence men are now available to distinguish between what weapons are relevant to an equilibrium with the Soviets, what destroys this balance by encouraging a new competitive round, and what serves primarily the prestige of the Services and the prestige and profits of the contractors. The attacks on the Sentinel-Safeguard ABM system could never have been mounted in the Fifties.

Additionally, civilian priority has become one of the most evocative words in the language. Everywhere—for urban housing and services, sanitation, schools, police, urban transportation, clean air, potable water—the needs are huge and pressing. Because these needs are not being met the number of people who live in fear of an urban explosion may well be greater than those who are alarmed by the prospect of nuclear devastation. For many years I have lived in summers on an old farm in southern Vermont. In the years following Hiroshima we had the advance refugees from the atomic bomb. Now we have those who are escaping the ultimate urban riot. The second migration is much bigger than the first and has had a far more inflationary effect on local real-estate values.

Certainly the day when military spending was a slightly embarrassing alternative to unemployment is gone and, one imagines, forever.

With all of these changes has come a radical change in the political climate. Except in the darker reaches of Orange County and suburban Dallas (where defense expenditures also have their influence) fear of Communism has receded. We have lived with the Communists on the same planet now for a half-century. An increasing number are disposed to believe we *can* continue doing so. Communism seems somewhat less triumphant than twenty years ago. Perhaps the Soviet Union is yet another industrial state in which organization—bureaucracy—is in conflict with the people it must educate in such numbers for its tasks. Mr. Nixon in his many years as a political aspirant was not notably averse to making capital out of the Communist menace. But neither, if a little belatedly, was he a man to resist a trend. Many must have noticed that his warnings overt or implied of the Communist menace in his Inaugural Address were rather less fiery than those of John F. Kennedy eight years earlier.

The anxiety which led to the great concentration of military and industrial power in the Fifties having dissipated, the continued existence of that power has naturally become a political issue. There are many who think that Mr. Nixon sacrificed some, perhaps much, of his lead when, in the closing days of the Presidential campaign, he promised to revitalize the arms race with an effort to establish clear superiority over the Soviets. There can be little question that General Curtis LeMay, far from attracting voters to Governor George Wallace in 1968, was a disaster. At a somewhat lower level than Eisenhower, MacArthur, Patton, and Bradley, LeMay was one of the *bona fide* heroes in the American pantheon. But his close association with the military power, especially his long efforts to make nuclear warfare palatable, if not altogether appetizing, to the American public, was unnerving. As noted a stand-up-to-it heroism is combined with a deep sensitivity when the nuclear nerve is touched.

If the potential followers of Governor Wallace were capable of alarm over the military power, then the potential opposition is not confined to the bearded and barefoot left. (This, as in the case of Vietnam, will be the first assumption of the bureaucracy.) Nor is it. Concern reaches deeply into the suburban middle class and business community. During the summer of 1968, if I may recur once more to personal experience, I was concerned with raising money for Eugene McCarthy. We raised a great deal: the efforts with which I was at least marginally associated produced some $2.5 million. Overwhelmingly we got that money from businessmen. Opposition to the Vietnam war was, of course, the prime reason for this support. But concern over the military power was a close (and closely affiliated) second. When one is asking for money one very soon learns what evokes response.

Social concern, however inappropriate for a businessman, was most important but there were also very good business reasons for being aroused. In 1968, the hundred largest defense contractors had more than two-thirds (67.4 per cent) of all the defense business and the smallest fifty of these had no more in the aggregate than General Dynamics and Lockheed. A dozen firms specializing in military business (*e.g.*, McDonnell Douglas, General Dynamics, Lockheed, United Aircraft) together with General Electric and A T & T had a third of all the business. For the vast majority of businessmen the only association with the defense business is through the taxes they pay. Not even a subcontract comes their way. And they have another cost. They must operate in communities that are starved for revenue, where, in consequence, their business is exposed to disorder and violence

and where materials and manpower are preempted by the defense contractors. They must also put up with inflation, high interest rates, and regulation on overseas investment occasioned by defense spending. The willingness of American businessmen to suffer on behalf of the big defense contractors has been a remarkable manifestation of charity and self-denial.

Two other changes have altered the position of the military power. In the Fifties the military establishment of the United States was still identified in the public mind with the great captains of World War II—with Eisenhower, Marshall, MacArthur, Bradley, King, Nimitz, Arnold. And many members of a slightly junior generation—Maxwell Taylor, James Gavin, Matthew Ridgway, Curtis LeMay—were in positions of power. Some of these soldiers might have done less well had they been forced to fight an elusive and highly motivated enemy in the jungle of Vietnam encumbered by the leisurly warriors of the ARVN. (At one time or another, Eisenhower, MacArthur, Gavin all made it explicitly clear that they would never have got involved in such a mistake.) The present military generation is intimately associated with the Vietnam misfortune. And its credibility has been deeply damaged by its fatal association with the bureaucratic truths of that war—with the long succession of defeats that become victories, the victories that become defeats, and brilliant actions that did not signify anything at all. In the Fifties it required courage for a civilian to challenge Eisenhower on military matters. Anyone is allowed to doubt the omniscience of General Westmoreland.

Finally, all bureaucracy has a mortal weakness; it cannot respond effectively to attack. The same inertial guidance which propels it into trouble—which sends it mindlessly into the Bay of Pigs or Vietnam even when disaster is evident—renders it helpless in self-defense. It can, in fact, only mimic itself. Organization could not come up with any effective response to its critics on Vietnam. The old slogans—we must resist worldwide Communist aggression, we must not reward aggression, we must stand by our brave allies—were employed not only after repetition had robbed them of all meaning but after they had been made ludicrous by events. In the end Secretary of State Rusk was reduced to mnemonic speeches about our commitments. Organized thought was incapable of anything better.

So with the military power—only more so. One of the perquisites of great power is that its use need not be defended. In consequence kings, czars, dictators, capitalists, even union leaders—when their day of accounting comes have rarely been able to speak for themselves. As the military power comes under scrutiny, it will be reduced to asserting that its critics are indifferent to Soviet or Chinese intentions, unacquainted with the most recent intelligence, militarily inexperienced, naive, afraid to look nuclear destruction in the eye. Or it will be said that they are witting or unwitting tools of the Communist conspiracy. Following Secretary Laird's effort on behalf of the ABM (when he deployed from new intelligence an exceptionally alarming generation of Soviet missiles) a special appeal will be made to fear. A bureaucracy under attack is a fortress with thick walls but fixed guns.

VII

It is a cliché, much beloved of those who supply the diplomatic gloss for the military power, that not much can be done to limit the latter—or its budget—so long as "American responsibilities" in the world remain unchanged. And for others it is a persuasive point that to reduce the military budget will require a change in foreign policy.

But these changes have already occurred. In the years following World War II there was a spacious view of the American task in the world. We guarded the borders of the non-Communist world. We prevented subversion there and put down wars of liberation elsewhere. In pursuit of these aims we maintained alliances, deployed forces, provided military aid on every continent. This was the competition of the superpowers. We had no choice but to meet the challenge of that competition.

We have already found that the world so depicted does not exist. Superpowers there are but superpowers cannot much affect the course of life within the countries they presume to see as on their side. In part that was the lesson of Vietnam; annual expenditures of $30 billion, a deployment of more than half a million men, could not much affect the course of development in one small country. In lands as diverse as India, Indonesia, Peru, and the Congo we have found that our ability to affect the development is even less. We have also found, as in the nearby case of Cuba, that a country can go Communist without inflicting any overpowering damage.

What we have not done is accommodate our military policy to this reality. Military aid, bases, conventional force levels, weapons requirements still assume superpower omnipotence. (And the military power still projects this vision of our task.) Our foreign policy has, in fact, changed. It is the Pentagon that hasn't.

VIII

To argue that the military-industrial complex is now vulnerable is not to suggest that it is on its last legs. It spends a vast amount of public money, which insures the support of many (though by no means all) of those who receive it. Many Senators and Congressmen are slow to criticize expenditures in their districts even though for most of their supporters the cost vastly exceeds the gain. (Defense contracts are even more concentrated geographically than by firm. In 1967 three favored states out of fifty—California and New York and Texas—received one-third. Ten states accounted for a full two-thirds. In all but a handful of cases the Congressman or Senator who votes for military spending is voting for the enrichment of peope he does not represent at the expense of those who elect him.) And there is the matter of habit and momentum. The military power has been above challenge for so long that to attack still seems politically quixotic. One recalls, however, that it once seemed quixotic to be against the Vietnam war.

Nonetheless control is possible. I come to my final task. It is to offer a political decalogue of what is required. It is as follows:

(1) *The goal, all must remember, is to get the military power under firm political control. This means electing a President on this issue next time. This, above all, must be the issue in the next election.*

However, for the next three and a half years, not much can be done about the Presidency. Also if Mr. Nixon does not resist the military power he will follow President Johnson into oblivion—conceivably taking quite a few others with him. This one must suppose he will see. So while all possible moral pressure must be kept on the President, the immediate target is Congress.

(2) *Congress will not be impressed by learned declamation on the danger of military power. There must be organization.* The last election showed the power of that part of the community—the colleges, universities, concerned middle class, businessmen—which was alert to the Vietnam war. Now in every possible Congressional District there must be an organization alert to the military power. Anciently, legislators up for election have pledged themselves to an "adequate national defense," a euphemism for according the Pentagon a blank check. In the next election everyone must be pressed for a promise to resist military programs and press relentlessly for negotiations along lines indicated below. Any Senator or Congressman who does not believe that the Congress should exercise strict supervision over the Pentagon, that the latter should be strictly answerable to Congress both for its actions and its expenditures, confesses his indifference to the proper role of the legislative body. He will be better at home.

This effort must not be confined to the North, the Middle West, or West. In the last five years there has been a rapid liberalization of the major college and university centers of the South. Nowhere did McCarthy or Kennedy draw larger and more enthusiastic crowds than in the big Southern universities. Mendel Rivers, Richard Russell, Strom Thurmond, John Tower, and the other sycophants of the military from the South must be made sharply aware of this new constituency—and if possible be retired by it.

(3) *The Armed Services Committees of the two houses must obviously be the object of a special effort.* They are now, with the exception of a few members, a rubber stamp for the military power. Some liberals have been reluctant to serve on these fiefs. No effort, including an attack on the seniority system itself, should be spared to oust the present functionaries and to replace them with acute and independent-minded members. Here too it is important to get grassroots expression from the South.

(4) *The goal is not to make the military power more efficient or more righteously honest. It is to get it under control.* These are very different objectives. The first seeks out excessive profits, high costs, poor technical performance, favoritism, delay, or the other abuses of power. The second is concerned with the power itself. The first is diversionary for it persuades people that something is being done while leaving power and budgets intact.

(5) *This is not an antimilitary crusade. Generals and admirals and soldiers, sailors, and airmen are not in the object of attack. The purpose is to return the military establishment to its traditional position in the American political system.* It was never intended to be an unlimited partner in the arms industry. Nor was it meant to be a controlling voice in foreign policy. Any general or admiral who rose to fame before World War II would be surprised and horrified to find that his successors in the profession of arms are now commercial accessories of General Dynamics.

(6) *Whatever its moral case there is no political future in unilateral disarmament.* And the case must not be compromised by wishful assumptions about the Soviets which the Soviets can then destroy. It can safely be assumed that nuclear annihilation is as unpopular with the average Russians as it is with the ordinary American, and that their leaders are not retarded in this respect. But it is wise to assume that within their industrial system, as within ours, there is a military-industrial bureaucracy committed to its own perpetuation and growth. This governs the more precise objectives of control.

(7) *Four broad types of major weapons systems can be recognized.* There are first those that are related directly to the existing balance of power or the balance of terror vis-a-vis the Soviets. The ICBM's and the Polaris submarines are obviously of this sort; in the absence of a decision to disarm unilaterally, restriction or reduction in these weapons requires agreement with the Soviets. There are, secondly, those that may be added within this balance without tipping it drastically one way or the other. They allow each country to destroy the other more completely or redundantly. Beyond a certain number, more ICBMs are of this sort. Thirdly there are those that, in one way or another, tip the balance or seem to do so. They promise, or can be thought to promise, destruction of the second country while allowing the first to escape or largely escape. Inevitably, in the

absence of a prospect for agreement, they must provoke response. An ABM, which seems to provide defense while allowing continued offense, is of this sort. So are missiles of such number, weight, and precision as to be able to destroy the second country's weapons without possibility of retaliation.

Finally there are weapons systems and other military construction and gadgetry which add primarily to the prestige of the Armed Services, or which advance the competitive position of an individual branch.

The last three classes of weapons do not add to such security as is provided under the balance of terror.[8] Given the response they provoke, they leave it either unchanged or more dangerous. But all contribute to the growth, employment, and profits of the contractors. All are sought by the Armed Forces. The Army's Sentinel (now Safeguard) Anti-Ballistic Missile system is urged even though it is irrelevant and possibly dangerous as a defense. As Mr. Russell Baker has said, it is based at least partly on the assumption that the Chinese would "live down to our underestimates of their abilities and produce a missile so inferior that even a Sentinel can shoot it down." But it holds a position for the Army in this highly technological warfare. The Air Force wants a new generation of manned bombers, their vulnerability notwithstanding, because an Air Force without such bombers—with the key fighting men sitting silently in underground command posts—is much less interesting. And Boeing, General Dynamics, Lockheed, North American Rockwell, Grumman, and McDonnell Douglas are naturally glad that this is so. The Navy wants nuclear carriers and their complement of aircraft, their vulnerability also notwithstanding, for the same reason.

A prime objective of control is to eliminate from the military budget those things which contribute to the arms race or are irrelevant to the present balance of terror. This includes the second, third, and fourth classes of weapons mentioned above. The ABM and the MIRV (the Multiple Independently-targeted Reentry Vehicle), both of which will spark a new competitive round of a peculiarly uncontrollable sort, as well as manned bombers and nuclear carriers are all of this sort. Perhaps as a simple working goal, some five billions of such items should be eliminated in each of the next three years for a total reduction of fifteen billion.[9]

(8) The second and more important objective of control is to win agreement with the Soviets on arms control and reduction. This means, in contrast with present military doctrine, that we accept that the Soviets will bargain in good faith. And we accept also that an imperfect agreement—for none can be watertight—is safer than continuing competition. It means, as a practical matter, that the military role in negotiations must be sharply circumscribed. Military men—prompted by their industrial allies—will always object to any agreement that is not absolute, self-enforcing, and watertight. Under such circumstances arms-control negotiations become, as they have been in recent times, a charade. Instead of halting the arms race they may even have the effect of justifying it. "After all we are trying for agreement with the ————." The Congress and the people must make the necessity for this control relentlessly clear to the Executive.

(9) Independent scientific judgment must be mobilized in this effort—as guidance to the political effort, for advice to Congress, and of course, within the Executive itself. The arms race, in its present form, is a scientific and mathematical rather than a military contest. Those military can no longer barricade themselves behind claims of military expertise or needed secrecy, opposing views must be reliably available.

But decisions on military needs are still made in a self-serving compact between those who buy weapons and those who sell. So the time has come to constitute a special body of highly qualified scientists and citizens to be called, perhaps, the Military Audit Commission. Its function would be to advise the Congress and inform the public on military programs and negotiations. It should be independently, *i.e.* privately, financed. It would be the authoritative voice on weapons systems that add to international tension or competition or serve principally the competitive position and prestige of the Services or the profits of their suppliers. It would have the special function of serving as a watchdog on negotiations to insure that the military power is excluded.

(10) Control of the military power must be an ecumenical effort. Obviously no one who regards himself as a liberal can any longer be a communicant of the military power. But the issue is one of equal concern to conservatives—to the conservative who traditionally suspects any major concentration of public power. It is also an issue for every businessman whose taxes are putting a very few of his colleagues on the gravy train. But most of all it is an issue for every citizen who finds the policy images of this bureaucracy—the Manned Orbiting Laboratory preserving the American position when all or most are dead below—more than a trifle depressing.

IX

A few will find the foregoing an unduly optimistic effort. More, I suspect, will find it excessively moderate, even commonplace. It makes no overtures to the withdrawal of scientific and other scholarly talent from the military. It does not encourage a boycott on recruiting by the military contractors. It does not urge the curtailment of university participation in military research. These, there should be no mistake about it, will be necessary if the military power is not brought under control. Nor can there be any very righteous lectures about such action. The military power has reversed constitutional process in the United States—removed power from the public and Congress to the Pentagon. It is in a poor position to urge orderly political process. And the consequences of such a development could be very great—they could amount to an uncontrollable thrust to unilateral disarmament. But my instinct is for action within the political framework. This is not a formula for busy ineffectuality. None can deny the role of those who marched or picketed on Vietnam. But, in the end, it was political action that arrested the escalation and broke the commitment of the bureaucracy to this mistake. Control of the military power is a less easily defined and hence more difficult task. (To keep the military and its allies and spokesmen from queering international negotiations will be especially difficult.) But if sharply focused knowledge can be brought to bear on both weapons procurement and negotiation; if citizen attitudes can be kept politically effective by the conviction that this is the political issue of our time; if there is effective organization; if in consequence a couple of hundred or even a hundred members of Congress can be kept in a vigilant, critical, and aroused mood; and if for the President this becomes visibly the difference between success and failure, survival and eventual defeat, then the military-industrial complex will be under control. It can be made to happen.

[From the New York Times Magazine, June 22, 1969]

AS EISENHOWER WAS SAYING: "WE MUST GUARD AGAINST UNWARRANTED INFLUENCE BY THE MILITARY-INDUSTRIAL COMPLEX"[1]

(By Richard F. Kaufman[2])

Eight years have gone by since President Eisenhower opened the door on the military-industrial skeleton in the closet. Yet only recently has research started to hang some real meat on his bony, provocative phrase, "military-industrial complex." What is emerging is a real Frankenstein's monster. Not only is there considerable evidence that excessive military spending has contributed to a misallocation of national resources, but the conclusion seems inescapable that society has already suffered irreparable harm from the pressures and distortions thus created.

Military and military-related spending accounts for about 45 per cent of all Federal expenditures. In fiscal 1968, the total Federal outlays were $178.9-billion. The Defense Department alone spent $77.4-billion, and such related programs as military assistance to foreign countries, atomic energy and the Selective Service System raised the figure to $80.5-billion. The $4-billion program of the National Aeronautics and Space Administration and other activities intertwined with the military carry the real level of defense spending considerably higher.

To place the defense bill in perspective we should note that 1968 appropriations were less than $500-million for food stamps, school lunches and the special milk program combined. For all federally assisted housing programs, including Model Cities, they were about $2-billion. The poverty program received less than $2-billion. Federal aid to education was allotted about $5.2-billion.

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[8] Charles L. Schultze, the former Director of the Budget under President Johnson and his associate William M. Capron, neither of them radicals in this matter, have recently observed that "Once we have achieved a minimum deterrent, plus an ample margin of safety and a healthy R & D program to be prepared for the future, it is difficult to conceive of any value the United States could gain from additional 'superiority' in nuclear forces. . . . we cannot attain a first-strike capability. And if we can retaliate with devastating force against a Soviet attack, what do we gain by having twice or three times that force? It adds nothing to our diplomatic strength in situations short of nuclear war. It does not add to deterrence—devastation twice over is no greater deterrent than devastation once. We can, to some extent, limit damage to the United States by having the capability, in a retaliatory strike, to target Soviet missiles and bombers withheld in a first strike. But the 'ample margin of safety' described above gives us such a capability already. Excessive superiority, in other words, gains us little of value, costs substantially in budget terms, and almost inevitably forces a Soviet response which eliminates the superiority temporarily gained." Unpublished memorandum. A valuable recent document on this whole subject is George W. Rathjens' *The Future of the Strategic Arms Race* (Carnegie Endowment for International Peace, 1969).

[9] I would urge leaving the space race out of this effort. The gadgetry involved is not uniquely lethal; on the contrary it channels competition with the Soviets, if such there must be, into comparatively benign channels. It has so far been comparatively safe for the participants—strikingly so as compared with early efforts at manned flight in the atmosphere and across the oceans. One observes, between ourselves and the Soviets, a gentlemanly obligation to admire each other's accomplishments which, on the whole, compares favorably with similar manifestations at the Olympic games or involving music and the ballet.

[1] Farewell radio and television address to the American people, Jan. 17, 1961.

[2] Richard F. Kaufman is an economist on the staff of the Joint Economic Subcommittee on Economy in Government, which Senator William Proxmire heads.

The funds spent on these programs and all those categorized as health, education, welfare, housing, agriculture, conservation, labor, commerce, foreign aid, law enforcement, etc.—in short, all civilian programs—amounted to about $82.5-billion, if the space and veterans' programs are not included, and less than $70-billion if the interest on the national debt is not considered.

The largest single item in the military budget—it accounted for $44-billion in 1968—is procurement, which includes purchasing, renting or leasing supplies and services (and all the machinery for drawing up and administering the contracts under which those purchases and rentals are made). Procurement, in other words, means Government contracts; it is mother's milk to the military-industrial complex.

The Pentagon annually signs agreements with about 22,000 prime contractors; in addition, more than 100,000 subcontractors are involved in defense production. Defense-oriented industry as a whole employs about 4 million men. However, although a large number of contractors do some military business, the largest share of procurement funds is concentrated among a relative handful of major contractors. Last year the 100 largest defense suppliers obtained $26.2-billion in military contracts, 67.4 per cent of the money spent through contracts of $10,000 or more.

Similarly, the Atomic Energy Commission's contract awards tend to be concentrated in a select group of major corporations. Of approximately $1.6-billion awarded in contracts last year, all but $104-million went to 36 contractors. As for NASA, procurement plays a larger role in its activities than in those of any other Federal agency. More than 90 per cent of its funds are awarded in contracts to industry and educational institutions. Of the $4.1-billion worth of procurement last year, 92 per cent of the direct awards to business went to NASA's 100 largest contractors.

In terms of property holdings, the result of almost two centuries of military procurement is a worldwide and practically incalculable empire. An almost arbitrary and greatly underestimated value—$202.5-billion—was placed on military real and personal property at the end of fiscal year 1968. Weapons were valued at $100-billion. Supplies and plant equipment accounted for $55.6-billion. Most of the remainder was in real estate. The Pentagon says the 29 million acres it controls—an area almost the size of New York State—are worth $38.7-billion. (The official Defense Department totals do not include 9.7 million acres, valued at $9-billion, under the control of the Army Civil Works Division or additional property valued at $4.7-billion.) The arbitrariness of those figures is seen in the fact that they represent acquisition costs. Some of the military real estate was acquired more than a century ago, and much of it is in major cities and metropolitan areas. The actual value of the real estate must be many times its acquisition cost.

But the important fact about procurement is not the extent of the Pentagon's property holdings; it is that defense contracting has involved the military with many of the largest industrial corporations in America. Some companies do almost all their business with the Government. Into this category fall a number of the large aerospace concerns—such giants as General Dynamics, Lockheed Aircraft and United Aircraft. For such other companies as General Electric, A.T.&T. and General Motors, Government work amounts to only a small percentage of the total business. But the tendency is for a company to enlarge its share of defense work over the years, at least in dollar value. And whether defense contracts represent 5 per cent or 50 per cent of a corporation's annual sales, they become a solid part of the business, an advantage to maintain or improve upon. A company may even work harder to increase its military sales than it does to build commercial sales because military work is more profitable, less competitive, more susceptible to control through lobbying in Washington. The industrial giants with assets of more than $1-billion have swarmed around the Pentagon to get their share of the sweets with no less enthusiasm than their smaller brethren.

The enormous attraction of military and military-related contracts for the upper tiers of industry has deepened in the last few years as military procurement has increased sharply. For example, G.E.'s prime-contract awards have gone up from $783-million in 1958 to $1.5-billion in 1968; General Motors went from $281-million in 1958 to $630-million in 1968. While much of this increase can be traced to the Vietnam war boom and many contractors would suffer a loss of business if the war ended, there was steady growth in the defense industry during the fifties and early sixties (in 1964 and 1965, before the Vietnam build-up, there was a decline in prime-contract awards). In the five years from 1958 to 1963—five years of peace—the value of G.E.'s prime contracts increased $217-million and General Motors' rose $163-million. The same trend can be shown for many of the large corporations in the aerospace and other industries.

What seems to be happening is that defense production is gradually spreading throughout industry, although the great bulk of the funds is still spent among relatively few companies. Still, as the defense budget increases the procurement dollars go further. The geographical concentration of defense production in the industrialized, high-income states also suggests that military contracts have come less and less to be restricted to an isolated sector of the economy specializing in guns and ammunition. Military business has become solidly entrenched in industrial America.

Considering the high degree of mismanagement and inefficiency in defense production and the tendency for contractors to want more sales and therefore to support the military in its yearly demands for a larger budget, this is not a healthy situation. The inefficiency of defense production, particularly in the aerospace industry, can hardly be disputed. Richard A. Stubbing, a defense analyst at the Bureau of the Budget, in a study of the performance of complex weapon systems, concluded: "The low over-all performance of electronics in major weapon systems developed and produced in the last decade should give pause to even the most outspoken advocates of military-hardware programs." He found that in 13 aircraft and missile programs produced since 1955 at a total cost of $40-billion, fewer than 40 per cent of the electronic components performed acceptably; two programs were canceled at a cost to the Government of $2-billion, and two programs costing $10-billion were phased out after three years because of low reliability.

And the defense industry is inefficient as well as unreliable. Albert Shapero, professor of management at the University of Texas, has accused aerospace contractors of habitually over-staffing, over-analyzing and over-managing. A. E. Fitzgerald, a Deputy Assistant Secretary of the Air Force, in testimony before the Joint Economic Subcommittee on Economy in Government, described poor work habits and poor discipline in contractors' plants. In the same hearing, a retired Air Force officer, Col. A. W. Buesking, a former director of management systems control in the office of the Assistant Secretary of Defense, summarized a study he had conducted by saying that control systems essential to prevent excessive costs simply did not exist.

In a sense, industry is being seduced into bad habits of production and political allegiance with the lure of easy money. And industry is not the only sector being taken in. Consider conscription (3.6 million men in uniform), the Pentagon's civilian bureaucracy (1.3 million), the work force in defense-oriented industry (4 million), the domestic brain drain created by the growth in military technology, the heavy emphasis on military research and development as a percentage (50 per cent) of all American research, the diversion of universities to serve the military and defense industry. These indicators reveal a steady infiltration of American values by those of the military establishment: production for nonproductive use, compulsory service to the state, preparation for war. In the process, the economy continues to lose many of the attributes of the marketplace. In the defense industry, for all practical purposes, there is no marketplace.

The general rule for Government procurement is that purchases shall be made through written competitive bids obtained by advertising for the items needed. In World War II the competitive-bid requirements were suspended. After the war the Armed Services Procurement Act was passed, restating the general rule but setting out 17 exceptions—circumstances under which negotiation would be authorized instead of competition. The exceptions, which are still in use, are very broad and very vague. If the item is determined to be critical or complex or if delivery is urgent or if few supplies exist and competition is impractical or if emergency conditions exist or if security considerations preclude advertising, the Pentagon can negotiate for what it wants.

When President Truman signed this law in 1948 he saw the possibilities for abuse and wrote to the heads of the armed services and the National Advisory Committee for Aeronautics. "This bill," he said, "grants unprecedented freedom from specific procurement restrictions during peacetime. . . . . There is danger that the natural desire for flexibility and speed in procurement will lead to excessive placement of contracts by negotiation and undue reliance upon large concerns, and this must not occur." Unfortunately, Truman's apprehensions were well justified. Last year about 90 percent of the Pentagon's and 98 percent of NASA's contract awards were negotiated under the "exceptions."

What this means is that there is no longer any objective criterion for measuring the fairness of contract awards. Perhaps more important, control over the costs, quality and time of production, insofar as they resulted from competition, are also lost. Negotiation involves informal discussion between the Pentagon and its contractors over the price and other terms of the contract. It permits subjective decisionmaking on such important questions as which firms to do business with and what price to accept. The Pentagon can negotiate with a single contractor, a "sole source," or it can ask two or three to submit proposals. If one later complains that he had promised to provide a weapon at a lower price than the contractor who obtained the award, the Pentagon can respond by asserting that the price was not the major factor, that the Government simply had more faith in the contractor who won. This, in effect, is how the Army responded to the Maremont Corporation's recent challenge of a contract award to General Motors for the M–16 rifle. The Pentagon, because of its almost unbounded freedom to award contracts, can favor some companies. And over long periods, this practice can lead to a dependence by the Government on the technical competence of the suppliers on whom it has come to rely. For example, the Newport News Shipbuilding Company has a virtual monopoly on the construction of large aircraft carriers.

Typically, the Pentagon will invite a few of the large contractors to submit proposals for a contract to perform the research and development on a new weapon system. The one who wins occupies a strategic position. The know-how he gains in his research work gives him an advantage over his rivals for the larger and more profitable part of the program, the production. This is what is

meant when it is said that the Government is "locked in" with a contractor. Because the contractor knows he will obtain a lock-in if he can do the initial research work, there is a tendency to stretch a few facts during the negotiations.

Contractor performance is measured by three factors: the total cost to the Government of the weapon system, the way in which it functions and the time of delivery. During the contract negotiations over these factors the phenomenon known as the "buy-in" may occur. The contractor, in order to "buy in" to the program, offers more than he can deliver. He may promise to do a job at a lower cost than he knows will be incurred or to meet or exceed performance specifications that he knows are unattainable or to deliver the finished product long before he has reason to believe it will be ready.

Technically, the contractor can be penalized for his failure to fulfill promises made during the negotiations, but the Government rarely insists on full performance. The contractor knows this, of course, and he also knows the "get-well" strategem. That is, he can reasonably expect, on practically all major weapons contracts, that should he get into difficulty with regard to any of the contract conditions, the Government will extricate him—get him well.

The contractor can get well in a variety of ways. If his costs run higher than his estimates, the Pentagon can agree to pay them. (Cost increases can be hidden through contract-change notices. On a typical, complex weapon system, the changes from original specifications will number in the thousands; some originate with the Pentagon, some are authorized at the request of the contractor. The opportunities for burying real or phony cost increases are obvious, so much so that in defense circles contract-change notices are sometimes referred to as "contract nourishment.") The Government can also accept a weapon that performs poorly or justify a late delivery. If for some reason it is impossible for the Pentagon to accept a weapon, there is still a way to keep the contractor well. The Pentagon can cancel a weapon program for the "convenience" of the Government. A company whose contract is canceled for default stands to lose a great deal of money, but cancellation for convenience reduces or eliminates the loss; the Government makes reimbursement for costs incurred. An example of this occurred recently in connection with the F–111B, the Navy's fighter-bomber version of the TFX.

Gordon W. Rule, a civilian procurement official who had responsibility for the F–111B, said in testimony before the House Subcommittee on Military Operations that General Dynamics was in default on its contract because the planes were too heavy to meet the height or range requirements. Rule proposed in a memorandum to Deputy Secretary of Defense Paul H. Nitze that the contract be terminated for default. At the same time, Assistant Secretary of the Air Force Robert H. Charles and Roger Lewis, the General Dynamics chairman, proposed that the Navy reimburse the company for all costs and impose no penalty. Nitze's compromise was to make reimbursement of $216.5-million, mostly to General Dynamics, and to impose a small penalty.

In a memo written last year Rule made this comment on the attitude of defense contractors: "No matter how poor the quality, how late the product and how high the cost, they know nothing will happen to them."

There are many other ways to succeed in the defense business without really trying. The Pentagon generously provides capital to its contractors; more than $13-billion worth of Government-owned property, including land, buildings and equipment, is in contractors' hands. In addition, the Pentagon will reimburse a supplier during the life of his contract for as much as 90 per cent of the costs he reports. These are called "progress" payments, but are unrelated to progress in the sense of contract objectives achieved; they correspond only to the costs incurred. The progress payments are interest-free loans that provide the contractor with working capital in addition to fixed capital. They minimize his investment in the defense business and free his assets for commercial work or for obtaining new defense work.

Investigations by the General Accounting Office have revealed that the Government's money and property have been used by contractors for their own purposes. The most recent incident involved Thiokol Chemical Corporation, Aerojet-General (a subsidiary of General Tire & Rubber Company) and Hercules, Inc. From 1964 through 1967 they received a total of $22.4-million to be used for work on the Air Force Minuteman missile program. The Government accountants found that the three contractors misused more than $18-million of this money, spending it for research unrelated and inapplicable to Minuteman or any other defense program.

The defense industry is perhaps the most heavily subsidized in the nation's history. Thanks to Pentagon procurement policies, large contractors find their defense business to be their most lucrative. Although no comprehensive study of such profits has been made, the known facts indicate that profits on defense contracts are higher than those on related nondefense business, that they are higher for the defense industry than for manufacturing as a whole and that the differential has been increasing. In a study that compared the five-year period from 1959 through 1963 with the last six months of 1966, the General Accounting Office found a 26 per cent increase in the average profit rates negotiated. Admiral Hyman G. Rickover has testified that suppliers of propulsion turbines are insisting on profits of 20 to 25 per cent, compared with 10 per cent a few years ago, and that profits on shipbuilding contracts have doubled in two years.

The figures cited by Rickover relate to profits as a percentage of costs, a measure that often understates the true profit level. The more accurate measure is return on investment. An example of the difference was demonstrated in a 1962 tax-court case, North American Aviation v. Renegotiation Board. The contracts provided for 8 per cent profits as a percentage of costs, the tax court found that the company had realized profits of 612 per cent and 802 per cent on its investment in two succeeding years. The reason for the huge return on investment was the Defense Department policy of supplying both fixed and working capital to many of the larger contractors. In some cases the amount of Government-owned property exceeds the contractor's investment, which is sometimes minimal. It is no wonder that contractors prefer to talk about profits as a percentage of costs.

Murray Weidenbaum, recently appointed Assistant Secretary of the Navy, found in a study that between 1962 and 1965 a sample of large defense contractors earned 17.5 per cent net profit (measured as a return on investment), while companies of similar size doing business in the commercial market earned 10.6 per cent.

The Pentagon has attempted to answer the critics of high defense profits by citing the findings of the Logistics Management Institute, a think tank that has done a study showing declining defense profits. The trouble with the institute's study is that it used unverified, unaudited data obtained on a voluntary basis from a sample of defense contractors. Those who did not want to participate simply did not return the questionnaires, in fact, 42 percent of those contacted provided no data. There is no way of knowing whether the group of contractors who refused to participate in the study included the ones making the highest profits.

There is almost no risk in defense contracting except that borne by the Government. If a major prime contractor has ever suffered a substantial loss on a defense contract, the Pentagon has failed to disclose his name, although it has been requested to do so by members of Congress. On the other hand, the disputed Cheyenne helicopter and C–5A cargo plane projects could conceivably result in large losses for Lockheed, the contractor in both cases. Lockheed asserts that it might still make a profit on the C–5A (which is being produced in a Government-owned plant), and denies that it is at fault in the cancellation of production on the Cheyenne helicopter (on which research work has been resumed). Past experience suggests that one should await the final decision, which may be two years in coming, before making flat statements about profit and loss.

In fairness, it ought to be pointed out that Secretary of Defense Melvin R. Laird has talked about a new get-tough policy with contractors. New procurement techniques that would, for instance, require contractors to meet specific cost benchmarks have been announced; increased prototype development is planned; greater public disclosure of cost overruns and performance or scheduling problems have been promised; the production of the Cheyenne helicopter and the Air Force's Manned Orbiting Laboratory program have been canceled. Whether any of these measures will produce real savings has yet to be determined. The Pentagon is famous for its paper reforms.

The defense industry, in addition to providing high profits at low risk, offers fringe benefits for everyone. One of the important advantages for those in procurement on either side of the bargaining table, is the opportunity for career advancement. There is a steady march of military and civilian personnel back and forth between the Pentagon and the defense industry. It is not considered unusual for someone like Maj. Gen. Nelson M. Lynde Jr. to retire from the Army after being directly involved in the procurement of the M–16 rifle and go to work five months later for Colt Industries, originally the "sole source" of the M–16; nor is it a matter for comment when Lieut. Gen. Austin Davis retires from the Air Force after playing an important role in procurement for the Minuteman missile program and becomes vice president of North American Rockwell, one of the Minuteman's prime contractors.

This is not to say that the interchange of personnel between the Pentagon and the defense industry is harmful in itself or that it ought to be prohibited. There is a problem in finding qualified people, and one would not want to deprive either the Pentagon or contractors of a source of trained manpower. While it would not be fair to condemn the practice and everyone engaged in it out of hand, there is a serious conflict-of-interest problem.

The conflict-of-interest laws apply primarily to military personnel and are easily evaded. Therefore, the solution to the problem does not seem to lie in expanding the legal restrictions. What might help is the public disclosure of the names of high-ranking Pentagon officials who have moved on to jobs in the defense industry and those who have made the reverse trip. The Subcommittee on Economy in Government has recommended that such a list be compiled. It would facilitate scrutiny of the interchange problem by revealing obvious conflicts of interest that should be investigated.

Individuals in the field of procurement naturally have an interest in the continued growth and importance of their field. The same could be said of people in many other fields. What is disturbing here is the opportunity that many officials have to influence procurement policy while in the Pentagon and then benefit from their actions or those of their former associates when they join the defense industry or, possibly, one of the 16 Federal-contract research centers supported by the Pentagon.

The 16 centers, including the Rand Cor-

poration and the Institute for Defense Analysis, receive at least 85 per cent—and in some cases as much as 99 per cent—of their income from the Pentagon. With contracts totaling more than $300-million a year, they form a kind of halfway house between the military establishment and the defense industry, serving the interests of both.

Last year, Senator J. W. Fulbright, the chairman of the Senate Foreign Relations Committee, obtained from the Pentagon a list of the top officials of the research centers and their prior Government affiliations. Seven center presidents and five vice presidents—including Maxwell D. Taylor, former chairman of the Joint Chiefs of Staff—had once held high posts in the Defense Department. Taylor's salary as president of the Institute for Defense Analysis was reported as $49,200; he also, of course, received retirement pay as a general. The highest-paid research-center officer was the president of the Aerospace Corporation, an Air Force creation, who received $90,000 a year.

In hearings last fall before the Subcommittee on Economy in Government, Senator William Proxmire looked briefly at the Logistics Management Institute, a Pentagon-created research center that worked exclusively for the Defense Department until recently, when it obtained permission to devote 10 per cent of its time to other assignments. Senator Proxmire learned that, of the institute's 18 professional staff members, six came directly from defense contractors, six were formerly employed by research centers or consultant firms whose work was heavily defense oriented and one was a retired Air Force Reserve officer.

More recently, Proxmire asked the Pentagon for a list of the retired regular military officers holding the ranks of Army colonel, Navy captain or higher employed by the 100 largest defense contractors. As of February, 1969, 2,072 retired regular military officers were employed by the 95 top contractors who responded to the inquiry, an average of 22 in each company. The 10 companies employing the largest number had 1,065 on their payrolls, an average of 106, triple the average number they employed in 1959.

Proxmire, in a March 24 speech, commented, "What we have here is almost a classic example of how the military-industrial complex works." His point was that there is a growing community of interests between the military and the large contractors and that it militates against the public interest. Former high-ranking military men have a special entrée to the Pentagon, they have friendships with those still there and may even negotiate contracts or be involved in developing plans and specifications with officers with whom they served, whom they promoted or vice versa. "In addition," Proxmire said, "there is the subtle or unconscious temptation to the officer still on active duty. After all, he can see that over 2,000 of his fellow officers work for the big companies. How hard a bargain does he drive with them when he is one or two years away from retirement?"

The interchange of personnel, according to testimony by Admiral Rickover, has helped spread a business-oriented philosophy in the Defense Department. One might equally well observe that a military-oriented philosophy has been spread in the defense industry. Several kinds of institutional arrangements in addition to the interchange of personnel help bind military power to industrial wealth. Representatives of industry, in such groups as the Aerospace Industries Association, and of the military, in such organizations as the Air Force Association, agree on the basic issues: a large military budget, a high cost base in defense production, no losses, high profits and Congressional and public compliance.

Though ostensibly preoccupied with national security and maintaining a strong defense against potential foreign aggressors, these institutions interpret domestic criticism of military spending as a problem of the highest priorty. Witness a meeting of the Industry Advisory Council and representatives of the Defense Department in October, 1968. (The Industry Advisory Council is one of a dozen or more business-advisory groups which meet regularly with officials in the Pentagon to discuss matters ranging from foreign policy to the latest proposed changes in armed services procurement regulations. The Industry Advisory Council until recently was called the Defense Industry Advisory Council. Dropping the word "Defense" from its name suggests its concern over public relations. The council's membership at the time of the October meeting included the presidents or board chairmen of Boeing, G.E., Brown and Root, Western Electric, DuPont, Lockheed, Newport News Shipbuilding, Northrop, General Dynamics, Olin Mathieson, Tenneco, Litton, and Ford.)

The immediate outcome of the October meeting was an outline of major problems facing the Pentagon and industry. The outline and a memorandum from Assistant Secretary of Defense Thomas Morris were circulated to officials on the assistant-secretary level of the Defense Department and each of the armed services. The subject was: "Fundamental Problem Areas: Key areas worthy of joint exploration by D.O.D. and industry in calendar year 1969."

Four major problem areas were listed. The first was how to "maintain public and Congressional confidence in the integrity and effectiveness of defense procurement and contractor performance." Others were how to obtain full compliance with procurement policies by both Pentagon and industry officials; how to maintain a healthy defense-industrial base, and how to increase the effectiveness of the major-weapon-system acquisition process.

The memo, in discussing how to shore up lagging public and Congressional confidence in the defense procurement process, listed some more specific "detailed problems," including these: uniform-accounting-standards legislation; excess-profits hearings; the Truth-in-Negotiations Act; General Accounting Office investigations and audits; investigations of such specific programs as the TFX and the M–14 rifle and statutory profit limitations. In other words, the chief worries of the industry and Pentagon representatives in 1969 are legislation that would tighten controls on procurement and defense profits, the investigation of specific weapons programs and investigations and audits by Government accountants.

The danger of the military-industrial complex lies in its scale. Reasonable men will tolerate a war machine as a necessary evil. It is the size of the machine and its claim on national resources and individual lives that is at issue. What is alarming is the growth of the complex.

The great leap of the military budget in the last few years, from about $50-billion to $80-billion, and its earlier growth, beginning with the Korean war, have helped to bring about serious stresses in the economy. Although no one factor can be identified as the sole cause of inflation, it is no accident that the three most recent price surges accompanied sharp increases in military spending between 1950 and 1953 (the Korean war period), between 1955 and 1957 and since the buildup in Vietnam began. Defense expenditures have contributed substantially to these inflationary trends. The consequent reduced value of savings and fixed-income assets during each of these periods is an indirect cost of defense; the 10 percent tax surcharge made necessary by the Vietnam build-up is a much more direct one.

More ominous than the economic consequences of a bloated defense budget are expanding and sometimes furtive military activities in such areas as foreign affairs, social-science research, domestic riot control and chemical and biological warfare. In hearings last year on Pentagon-sponsored foreign-affairs research, Senator Fulbright quoted from a 1967 report of the Defense Science Board (a scientific counterpart to the business-advisory groups): "The D.O.D. mission now embraces problems and responsibilities which have not previously been assigned to a military establishment. It has been properly stated that the D.O.D. must now wage not only warfare but 'peacefare' as well. Pacification assistance and the battle of ideas are major segments of the D.O.D. responsibility. The social and behavioral sciences constitute the unique resource for support of these new requirements. . . ."

Fulbright's reminder that the military's responsibility is "to prosecute war or to provide military forces which are capable of defending against an external attack" might have sounded like naiveté to the Pentagon, but his point is important. Social-science research conducted in foreign countries by foreigners should, if it is to be supported at all, be supported by the State Department, not the Pentagon. Research into socio-cultural patterns or the social organization of groups or processes of change should not be a military responsibility. Yet the Pentagon does support foreign research all over the world, awarding contracts to G.E. to make projections of "future world environments" and to McDonnell-Douglas to do a study entitled "Pax Americana," later retitled "Projected World Patterns, 1985."

The Army's new domestic "war room" in the basement of the Pentagon is also of doubtful legitimacy. This "operations center" is supposed to help dispatch and coordinate troops for urban riots (maybe that's "pacification assistance"). Even assuming the need for this kind of activity, one can raise the same question that disturbs Senator Fulbright with regard to social-science research: Is this a proper military responsibility?

The most recent example of the Pentagon's "independent thinking," brought to light by the efforts of Congressmen Richard D. McCarthy and Cornelius Gallagher, is the controversial Army plan to transport about 27,000 tons of obsolete poison gas across the country by train to New Jersey to be loaded onto old hulks, towed out to sea and sunk. Both the State Department and the Interior Department have a direct interest in this project, yet the Army did not bother to coordinate its plans with them until long after the plans were formulated.

Such incidents as the construction of the domestic war room and the independent decision to ship poison gas across the country symbolize the drift of power in the executive branch to the Pentagon and show the extent to which military authority has exceeded its traditional limits. Swollen by overgenerous appropriations, the defense budget has become the source of frightening political as well as economic power. Practically freed of the fiscal limitations that restrain other agencies, the Pentagon seems to be able to exercise its will in almost any area it chooses, foreign or domestic, from negotiating a new lease for bases and promising military assistance to Spain (as it was recently alleged to have done) to launching programs of social reform.

The nature of the problem was simply stated recently at a hearing of the House Subcommittee on Military Operations. Testifying was Phillip S. Hughes, deputy director of the Bureau of the Budget. Representative William Moorhead had charged that the bureau was unable to scrutinize Defense Department expenditures to the same extent that it reviews nondefense spending. The budget requests of Government agencies, except the Defense Department, are subjected to an independent analysis and review, which is then submitted to the Budget Director. The director makes his recommendations to the President, subject to challenge by the Cabinet officer concerned. But the Defense Department is treated differently. In the Pentagon, Moorhead said, Budget Bureau

analysts must work alongside their Defense counterparts, not independently. The results of this joint review are submitted to the Secretary of Defense, who sends it to the President, subject to challenge by the Budget Director. The result is that the burden of persuading the President to change the budget he receives is shifted from the agency head to the Budget Director in the case of the defense item, but only there. (The Nixon Administration's Budget Director, Robert P. Mayo, testified recently that the defense budget would be transmitted to the President in the future just as other departmental requests are.)

"The most relevant consideration," Hughes testified, "is, in blunt terms, sheer power—where the muscle is—and this is a very power-conscious town, and the Secretary of Defense, and the defense establishment are a different group to deal with, whether the Congress is dealing with them or whether the Budget Bureau is dealing with them. . . ."

The military-industrial complex has become a massive, tangled system, half inside, half outside the Government. Like the Gordian knot, it is too intricate to be unraveled. But like the dinosaur, its weakness lies in its great size. If its intricacy rebuffs us, its grossness is vulnerable; it can be reduced by substantially cutting the defense budget.

This is the only viable immediate solution, for innovations in contractual procedures, regulatory statutes such as the Truth-in-Negotiations Act and such watchdog agencies as the General Accounting Office have not been able to cope effectively with the major excesses in military procurement. The Bureau of the Budget has been in a subordinate position, notwithstanding its recent success in challenging the Manned Orbiting Laboratory funds and its claims to more power over the defense budget. The deck is stacked against those who would sit down across the table from the military-industrial complex.

The only way to change the game is to cut the budget.

ORDER OF BUSINESS

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

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

DEATH OF REPRESENTATIVE WILLIAM H. BATES, OF MASSACHUSETTS

Mr. BROOKE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives.

The PRESIDING OFFICER. The Chair lays before the Senate a message from the House of Representatives, which will be read.

The legislative clerk read as follows:

H. RES. 450

Resolved, That the House has heard with profound sorrow of the death of the Honorable William H. Bates, a Representative from the State of Massachusetts.

Resolved, That a committee of fifty-seven Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect the House do now adjourn.

Attest:

W. PAT JENNINGS,
Clerk.

Mr. BROOKE. Mr. President, I submit a resolution, for my colleague from Massachusetts (Mr. KENNEDY) and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be read for the information of the Senate.

The legislative clerk read the resolution (S. Res. 214) as follows:

S. RES. 214

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. William H. Bates, late a Representative from the State of Massachusetts.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That, as a further mark of respect to the memory of the deceased, the Senate do now adjourn.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROOKE. Mr. President, WILLIAM BATES had all of the attributes of an ideal public servant: a keen intellect, the ability to grasp difficult problems, a deep sense of compassion and understanding, a notable sense of humor, and above all those traits of character and integrity which earned for him the respect of his colleagues and constituency alike. I am sure that the people of the Sixth District, no matter what their political affiliation, feel that they have lost a very good friend. It is certain that the Commonwealth has lost one of her most distinguished sons and the Congress a Member of the first rank. BILL BATES would have been one of the last to consider himself indispensable, but with his passing I think that all of us are conscious that his place will be a difficult one ever to fill. He served his district, his Commonwealth, and his Nation with never less than total excellence and with utmost fidelity and devotion. My wife joins me in extending to Mrs. Bates and all of the family our heartfelt sympathy. It is a tragedy that a man like Congressman BILL BATES, in the prime of his life and with so many years of service yet unfulfilled, should have been taken from us.

The PRESIDING OFFICER. The question is on the adoption of the resolution.

The resolution was unanimously agreed to.

The PRESIDING OFFICER. Pursuant to the resolution, the Chair appoints the two Senators from Massachusetts, Senator BROOKE and Senator KENNEDY, to join with a like committee of the House to attend the funeral of the deceased Representative.

ADJOURNMENT

Mr. BROOKE. Mr. President, in accordance with Senate Resolution 214, and as a further mark of respect to the memory of the deceased, Representative BATES, I move that the Senate do now adjourn.

The motion was unanimously agreed to; and (at 2 o'clock and 39 minutes p.m.), under the previous order, the Senate adjourned until tomorrow, Tuesday, June 24, 1969, at 11 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate, June 23, 1969:

NATIONAL SCIENCE FOUNDATION

William David McElroy, of Maryland, to be Director of the National Science Foundation for a term of 6 years, vice Leland J. Haworth.

DIPLOMATIC AND FOREIGN SERVICE

Luther I. Replogle, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Iceland.

Kenneth Rush, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

J. Fife Symington, Jr., of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Trinidad and Tobago.

Samuel E. Westerfield, Jr., of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Liberia.

U.S. CIRCUIT JUDGE

Eugene A. Wright, of Washington, to be U.S. circuit judge, ninth circuit, vice a new position created under Public Law 90-347 approved June 18, 1968.

ASSOCIATE JUDGE

W. Byron Sorrell, of Maryland, to be an associate judge of the District of Columbia Court of General Sessions for the term of 10 years, vice a new position created under Public Law 90-579.

U.S. MARSHAL

Robert G. Wagner, of Ohio, to be U.S. marshal for the northern district of Ohio for the term of 4 years, vice R. Ben Hosler.

FEDERAL POWER COMMISSION

Albert Bushong Brooke, Jr., of Maryland, to be a member of the Federal Power Commission for the term of 5 years expiring June 22, 1974, reappointment.

IN THE NAVY

Vice Adm. Kleber S. Masterson, U.S. Navy, and Rear Adm. Robert J. Stroh, U.S. Navy, for appointment to the grade of vice admiral when retired, pursuant to title 10, United States Code, section 5233.

CONFIRMATIONS

Executive nominations confirmed by the Senate, June 23, 1969:

MISSISSIPPI RIVER COMMISSION

Maj. Gen. Andrew Peach Rollins, Jr., O24237, Army of the United States (brigadier general, U.S. Army), to be a member and President of the Mississippi River Commission, under the provisions of section 2 of an act of Congress approved June 28, 1879 (21 Stat. 37; 33 U.S.C. 642).

CALIFORNIA DEBRIS COMMISSION

Col. Charles R. Roberts, Corps of Engineers, to be a member of the California Debris Commission, under the provisions of section 1 of the act of Congress approved March 1, 1893 (27 Stat. 507; 33 U.S.C. 661).