national resources to solve these very solvable domestic problems. But we can see fit to invest over $30 billion and thousands of American lives annually in fighting for "freedom" in South Vietnam. How often do we ask ourselves—how free is a 6-year-old American, suffering from chronic malnutrition—which may or may not cause future brain damage—who attends substandard schools and lives in a substandard house? What choices will be opened to this child at the age of 18 when he most likely will be a functional illiterate and face extended periods of unemployment?

The city council in Pittsburgh adopted a resolution calling for an end to our involvement in Vietnam and an immediate reordering of our national priorities.

I would like to enter this resolution into the RECORD at this point:

RESOLUTION No. 237

Whereas, American armed forces have been engaged for over four years in combat in Vietnam, and have distinguished themselves for their valor despite vague and sometimes conflicting expressions of national purpose and objectives in that war; and

Whereas, Combat deaths for American forces now exceed the death toll in the Korean War, and the nation continues to spend $100,000,000 per day to finance the war; and

Whereas, The direct American involvement in the war in Vietnam—never intended in our original intervention—has reached the point where it brings an intolerable financial and personal burden to all Americans; and

Whereas, The pressing needs of our nation's cities are being slighted, Congressional appropriations are being cut and urban programs are being curtailed in the face of increasing need for substantial government action; and

Whereas, It is apparent that the national government has not yet formulated a definite plan to end direct American involvement in the Vietnam war;

Now, therefore, be it resolved, That the Pittsburgh City Council hereby memorializes the administration of President Richard M. Nixon to declare and carry out a definite program to terminate direct American involvement in the war in Vietnam and to put into effect the systematic withdrawal of major forces in America, to be completed before the end of 1970; and

Be it further resolved, That the Pittsburgh City Council does hereby memorialize the Congress of the United States to provide through its legislative and budgetary powers that the administration of President Nixon quickly begin to extricate the United States from its crushing, disastrous involvement in Vietnam and to devote national resources to programs which meet the needs of cities in housing, education and public transportation.

In Council October 14, 1969, read and adopted.

JOHN F. COUNAHAN,
President of Council.

Attest:

LOUIS C. DINARDO,
Clerk of Council.

Mayor's Office, October 21, 1969.

Approved:

JOSEPH M. BARR,
Mayor.

SENATE—*Monday, November 3, 1969*

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

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

Almighty God, the light of the pure in heart who see Thee, the life of the souls that love Thee, the strength of the minds that seek Thee, from whom to turn is to fall, to whom to turn is to rise, and in whom to abide is to stand fast forever, be Thou to us light and life and strength that our labor may be secure in Thee. Keep us alive to all true values and enable us to grow in the ways of Thy spirit.

O Lord, be with this Nation. Guide in Thy pure ways all who bear positions of trust, that they may know and do Thy will, and daily set forward Thy kingdom.

Through Jesus Christ our Lord. Amen.

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of October 30, 1969, the Secretary of the Senate, on October 31, 1969, received the following message from the House of Representatives:

That the House had passed the bill (S. 2917) to improve the health and safety conditions of persons working in the coal mining industry of the United States, with amendments, in which it requested the concurrence of the Senate; that the House insisted upon its amendments to the bill, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PERKINS, Mr. DENT, Mr. PUCINSKI, Mr. HAWKINS, Mrs. MINK, Mr. BURTON of California, Mr. AYRES, Mr. ERLENBORN, Mr. BELL of California, and Mr. SCHERLE were appointed managers on the part of the House at the conference;

That the House had passed a bill (H.R. 14001) to amend the Military Selective Service Act of 1967 to authorize modifications of the system of selecting persons for induction into the Armed Forces under this act, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has affixed his signature to the following enrolled bills and joint resolution, and they were signed by the President pro tempore:

S. 73. An act to amend the act entitled "An act to authorize the sale and exchange of isolated tracts of tribal land on the Rosebud Sioux Indian Reservation, S. Dak.";

S. 267. An act for the relief of Lt. Col. Samuel J. Cole, U.S. Army (retired);

H.R. 337. An act to increase the maximum rate of per diem allowance for employees of the Government traveling on official business, and for other purposes;

H.R. 12982. An act to provide additional revenue for the District of Columbia, and for other purposes; and

S.J. Res. 164. Joint resolution to provide for a temporary extension of the authority conferred by the Export Control Act of 1949.

HOUSE BILL REFERRED

Under authority of the order of the Senate of October 30, 1969, the bill (H.R. 14001) to amend the Military Selective Service Act of 1967 to authorize modifications of the system of selecting persons for induction into the Armed Forces under this act, was considered as having been read twice by its title, and was referred to the Committee on Armed Services.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, October 30, 1969, be dispensed with.

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

MESSAGES FROM THE PRESIDENT

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

REPORT OF THE DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91-189)

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce:

To the Congress of the United States:

I hereby submit the Second Annual Report of the Department of Transportation, covering Fiscal Year 1968.

RICHARD NIXON.

THE WHITE HOUSE, *October 31, 1969.*

EXECUTIVE MESSAGES REFERRED

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

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

WAIVER OF CALL OF THE CALENDAR

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

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

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

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

DEPARTMENT OF DEFENSE

The bill clerk read the nomination of Robert Louis Johnson, of California, to be an Assistant Secretary of the Army.

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

U.S. ARMY

The bill clerk proceeded to read sundry nominations in the U.S. Army.

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

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

U.S. MARINE CORPS

The bill clerk proceeded to read sundry nominations in the U.S. Marine Corps.

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

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK—AIR FORCE, ARMY, NAVY, AND MARINE CORPS

The bill clerk proceeded to read sundry nominations in the Air Force, the Army, the Navy, and the Marine Corps which had been placed on the Secretary's desk.

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

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

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

LEGISLATIVE SESSION

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

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

THE IMPORTANCE OF BEING COURTEOUS

Mr. MANSFIELD. Mr. President, I was disturbed to read on the ticker this morning the kind of reception given to our colleague, the distinguished Senator from Mississippi (Mr. STENNIS), when he appeared at Johns Hopkins University as a guest of that institution.

There are questions on which the distinguished Senator and I disagree, but I have always felt that anyone invited into an institution like Johns Hopkins just as anyone invited into someone's home should be treated as a guest, with courtesy and consideration. There are two sides to every question, and I abhor the fact that a Member of this body—and this would apply to any of our citizens—was not given the courteous treatment which any American deserves when he appears as a guest at any institution of this kind.

What we ought to recognize is that the differences which divide us will become wider if we do not try to narrow the gap.

I know Senator STENNIS as a man of courage, a man of deep conviction and great sincerity. I know, too, that if this situation had been reversed, Senator STENNIS would have extended toward the views of others the courtesy and tolerance that have characterized his many years of public service.

So I would hope that, despite the differences which many of us have, we would treat one another with courtesy and consideration. I know that Senator STENNIS would not have it otherwise. The example he has set over the years on that score is one all of us could follow. In that way also I think we would be less likely to resort to violence, epithets, name calling, and other forms of abuse which do none of us any good and, in fact, do this Nation great harm. I commend Senator STENNIS. I deplore the type of reception he reportedly received at Johns Hopkins.

THE TAX REFORM-TAX RELIEF MEASURE

Mr. MANSFIELD. Mr. President, the action last Friday by the Senate Finance Committee in ordering reported the Tax Reform-Tax Relief Act brings closer to completion what should prove to be the most singular achievement of the 91st Congress. During my years in Congress, I have never witnessed any committee devote itself more diligently to a task—in this case working from early morning to early evening for 2 solid months—than has the Finance Committee under the leadership of its chairman, RUSSELL LONG.

Last July, when the question of extending the surtax was before the Senate, Chairman LONG and the members of the Finance Committee agreed that they would report the tax reform bill by October 31. I do not believe that even they realized at the time just how much work would be involved in meeting that timetable. But rather than extend the period to accommodate the workload, they intensified their efforts to meet the original schedule. In setting such a timetable for his committee, Chairman LONG is to be particularly lauded for his efforts, for his commitment, for his cooperation, and performance.

In like manner, the ranking minority member, the distinguished Senator from Delaware (Mr. WILLIAMS)—who has for years championed the cause of tax reform—as well as all members of the Finance Committee who hammered out a full and distinct set of proposals in a relatively short period, deserve the praise and respect of the entire Senate and of the country.

The expeditious attitude of the Finance Committee should be the example for the entire Senate. The leadership will make every effort to assist the Finance Committee in completing Senate action on this bill by early December. The bill will be scheduled for floor action this month after the written report is filed and will be the first order of business after the disposition of the confirmation proceedings of Judge Haynsworth. It will be the leadership's intention to come in early each day on this bill—including Saturdays—and to stay until early evening in hopes of finishing work on the bill prior to the first week in December. The Senate can be most efficient when it devotes its full energies to a task. If no committees meet while the tax bill is under consideration on the floor, a great deal can be accomplished in 2 weeks.

With Senate disposition of this tax reform-tax relief package anticipated this session, there is no particular urgency or reason for proceeding in a separate bill with the repeal of the investment credit, the extension of the excise taxes, or the surtax extension. These are contained in the present Tax Reform-Tax Relief Act. Last July, when the original surtax extension was before the Senate, these provisions were not contained in the House-passed tax reform-tax relief bill. After the Senate acted to extend the surtax through December 31, 1969, the House added these provisions to the tax reform-tax relief package. These provisions remain in the Senate Finance Committee bill. If there is any question after Senate disposition of this tax reform-tax relief package with respect to completion of a con-

ference prior to the end of this calendar year, the investment credit and excise tax extension can be reenacted as part of a separate bill for swift completion prior to a sine die adjournment. These two provisions must be completed this year to prevent a revenue loss. The surtax extension will be effective January 1, 1970, regardless of when passed.

The achievements of the 91st Congress shall be many, but none can surpass that which is foreseen in the Tax Reform-Tax Relief Act. It should be highlighted that this bill is one that originated solely within the Halls of Congress. The initiative as well as the followthrough was in Congress. This act will highlight again that our actions in Congress are far more significant than anyone's words.

I ask unanimous consent that an editorial published in yesterday's Washington Post commending the work of the Senate Finance Committee be printed at this point in the RECORD.

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

TAX REFORM GOES TO THE SENATE

Congratulations are in order for the Senate Finance Committee for sending the tax-reform bill to the floor on schedule. An immense task remains in checking the language of the bill and writing the report, but if the Senate then moves as expeditiously as the Finance Committee has done it should be possible to enact the bill before the end of the year. In our view, it would be a serious mistake for Congress to lose the momentum it has now attained by letting the bill go over into the 1970 session.

As it now stands, the Finance Committee bill is better than many supposed it would be. Chairman Russell B. Long had given the impression that his committee might indulge in a tax-cutting spree that would be highly troublesome for the Treasury. The bill that it has finally sent to the Senate would cut income taxes about $9 billion a year, offset by increased revenue amounting to $6.5 billion from reform provisions. But the impact of these cuts would be softened in some measure by postponing the full effectiveness of the reduction until 1972. In this regard the bill is somewhat more conservative than that passed by the House.

The Finance Committee must be given credit for some other improvements in the bill. Especially notable are the more equitable schedules approved for single persons and widowed or divorced taxpayers with dependents. The House had also provided relief for these overtaxed categories, but with a strange discriminatory cutoff against single taxpayers under 35 years of age. At the request of the Treasury, the Finance Committee dropped this objectionable provision and adopted a reduced schedule of rates applicable to all single taxpayers. It would require them to pay 20 per cent more than married couples filing joint returns on comparable incomes (instead of 41 per cent more under present law) and the new head-of-household rates would be about midway between the other two schedules. This equitable and workable solution should easily prevail in the House-Senate conference.

We think the committee was well advised to reject Senator Gore's attempt to substitute a higher personal exemption for the tax cuts in the House bill. The effect would have been regressive and would have further complicated the reconciliation of the House and Senate versions.

The most serious deficiency in the Finance Committee bill comes from the elimination of the House provisions designed to ease the problem of tax-exempt state and municipal bonds. The House made a realistic approach to this dilemma by offering a federal subsidy to cover the higher interest rates on bonds made taxable by the states and cities and by limiting the tax preferences that any person may pile up for himself. If the Senate version should stand, some of the wealthiest Americans, drawing millions from tax-exempt interest, would continue to pay not one cent in federal income taxes. Here are provisions that should certainly be restored on the Senate floor or in conference.

The Finance Committee also watered down the House's treatment of depletion allowances for the oil and gas industry, but the relatively narrow gaps between the bills in this area should present no major problem. Likewise the Senate committee was more gentle in its claims upon capital gains, and the conflicting provisions in regard to foundations will require substantial adjustments. No doubt the Treasury will plead for narrowing the gap between the total cuts and increases, but there are no insuperable obstacles in sight. The country appears to be much closer to the achievement of tax reform than seemed possible to many at the begininng of the present congressional session.

Mr. SCOTT. Mr. President, I do agree with the distinguished majority leader that all measures of legislation originate in Congress. I think it is proper to raise the proposition that suggestions originate with the Executive in many cases. The President did ask for tax relief and tax reform in April of this year and he has consistently pressed his requests for this and other important measures.

The need for this tax bill is obvious to everyone. The uncertainty under which the country labors is real and unfortunate. Whether the investment tax credit and extension of the surtax by 5 percent occur as a part of this bill or separately is an arguable matter; some of us have one opinion and others have another opinion, but the fact is we should dispose of this tax bill in this session of Congress. That seems to me to be of the utmost importance, and I hope we can send to the President a bill as nearly as possible in keeping with his own suggestions of April of this year and subsequently.

PROGRAM

Mr. SCOTT. Mr. President, I would like to ask the distinguished majority leader if he could give us some information on the program for this week, bearing in mind that tomorrow is election day in many States.

Mr. MANSFIELD. I think those Senators whose States have elections tomorrow can be free to go. The calendar is practically bare. We are waiting for the committees to act. There is not a bill on the calendar that we can act on at the moment. We expect that the Committee on Armed Services will report the authorization for military construction today, and that the Committee on Appropriations, under the chairmanship of the distinguished President pro tempore, will report this afternoon the State, Justice, and Commerce appropriation bill.

If there is no objection, I would like to have the minority leader consider the possibility of taking up the State, Justice, and Commerce appropriation bill tomorrow, because that bill contains some very important drug and crime legislation—in fact, two of the items which were specifically requested by the President in his quasi-state of the Union address of October 13, 1969. I do not know of any great arguments against the consideration of that bill, and I do agree with the President that we should expedite every effort in enacting measures and appropriations dealing with drug and crime control.

Mr. SCOTT. Mr. President, I wish to say to the distinguished majority leader that that suggestion is perfectly satisfactory with me.

I am only raising the question that, tomorrow being election day, although none of us is a candidate for office tomorrow, the American Heritage Society and a great many others do urge people to vote and they urge us by our example to vote in our voting districts on the annual election day.

I assume many Senators would be somewhat conscious of their civic duty and would want to be present in their home areas for that civic purpose.

I would say it is extremely important that we get on with the appropriation bill and I would not want to impede it.

Mr. MANSFIELD. The Senator has been most cooperative in his capacity as minority leader in this body on all occasions on which I have approached him; but if Senators find it agreeable, we would consider this legislation tomorrow and if there is to be a rollcall vote it could be put over until about 12:30 p.m. on Wednesday. In that way no time will be lost and everybody will be given consideration.

Mr. SCOTT. I think that would be eminently fair to Senators. I can either go home or stay here depending on how the schedule works out.

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

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

Mr. COTTON. Mr. President, I may have missed some of the colloquy between the two distinguished leaders. Was there any mention made of when the Senate intends to take up the general continuing resolution that the House has passed, which involves a considerable increase in HEW?

Mr. MANSFIELD. My best information is not before the end of the week at the earliest.

Mr. COTTON. I thank the Senator.

ORDER OF BUSINESS

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

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

TO SET THE RECORD STRAIGHT

Mr. MANSFIELD. Mr. President, what I am about to say is for the record. The proposed reform of the draft law is one of the most important social measures to be considered by the 91st Congress. It affects the lives of the youth of our Nation. Many Senators have devoted much effort to devise proposals to remove the great inequities in the present system. These proposals will be considered in the Senate when the Senate considers changing the draft laws. The Senate rules grant that prerogative to each Senator on every measure to come before the Senate. This draft reform proposal should not be considered as being any different. Its importance demands that it not be summarily considered by the Senate.

Last Thursday, I announced my belief to reporters that there probably would be no draft reform legislation considered by the Senate this year. That belief was based upon the realities and practicalities of the situation involved. Upon the publication of that offhand remark, it is my understanding that the President issued a statement in which he asked the Senate leadership to reconsider its position on this matter.

May I say at the outset that if and when a draft reform bill is reported out of the Committee on Armed Services, it will receive the most expeditious consideration possible. That is the position of the leadership now—it was the position of the leadership last Thursday. It has always been the leadership's position.

The majority leader, I should point out, is in no position to call up a bill that has not been considered by the committee; that has not been reported out of the committee; that is not on the Senate Calendar and that may well not be on the calendar. So if I may reiterate: Any bill covering draft reform or any other matter that is reported out of committee and cleared by the policy committee—which I have no doubt would be the case—will be called up and considered promptly.

I make this statement not in reply to the President's suggestion that the Senate leadership reconsider its position on draft reform, but only to set the record straight and to make clear what that position was, what it is now, and what it will continue to be.

So far as I am personally concerned, I voted against the last extension of the Draft Act because I thought it was inequitable, unfair, and placed unduly difficult burdens on the lower income groups in this country. I do not think the change requested by the President goes far enough. Many inequities would still exist. However, I applaud the efforts of the President to remove some of the unfairness of the present law. But the fact is, the whole system is still most inequitable, most unfair and therefore, if considered this year, I will vote against the President's proposal as I would against the extension of the present draft law as is.

Despite my personal feelings, however, may I reiterate that if any measure is reported out of committee and placed on the calendar, that measure will receive prompt consideration and will be debated and considered by the Senate as a whole for the purpose of arriving at a clear-cut decision. That is the position of the leadership on all legislative proposals. And certainly, the President is entitled, in my opinion, to that much consideration. The hundreds of thousands of young men in this country certainly deserve that much consideration. Each will have it, if and when a draft proposal reaches the full Senate. But I should add that the President knows, as well as I, that unless a bill is reported out of committee and placed on the Senate Calendar there is absolutely no way in which the Senator from Montana as the majority leader can call up such a measure for Senate consideration.

Mr. President, I ask unanimous consent that editorials on this matter appearing in the Washington Daily News, the Washington Star, and the Boston Globe on November 1 be printed in the RECORD.

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

[From the Washington Daily News, Nov. 1, 1969]

THE DRAFT DEBACLE

By one abrupt statement, the majority leader in the Senate, Sen. Mike Mansfield of Montana, has killed what for a time had seemed to be rosy prospects for improving the draft system.

On the same day, the House of Representatives had passed a bill—382 to 13—to permit the President to install a lottery system of choosing young men for military service.

Mr. Nixon wants to call up 19-year-olds first. He wants to limit to one year the time in which a young man may be subject to draft call. He wants to do away with the present system which calls older men first, which keeps a man uncertain whether he will be called until he is 26.

The President thinks the present system is unfair. Even Sen. Mansfield thinks it is unfair.

But, Sen. Mansfield won't put the House bill to a vote in the Senate this year because, he says, it is "impossible" to get a consensus in the Senate on how to handle the bill. He doesn't think the lottery system Mr. Nixon proposes to use in deciding which young men are called is a sufficient reform of the draft law.

So he doesn't want any reform at all.

In this, strangely enough, he is joined by Sen. Ted Kennedy of Massachusetts who long had declared himself an advocate of a lottery system.

Mr. Nixon can make some draft reforms without legislation. But he can't set up the lottery system in the fairest possible form because there is a law which forbids it. Congress ought to change that law—and there is no legitimate excuse for not doing it now.

[From the Washington Star, Nov. 1, 1969]

POLITICS AND THE DRAFT

The Senate Democratic leaders should think again about their decision to block the administration's proposal for limited draft reform. They should reconsider—and they should follow the lead of the House which approved the measure 382 to 13.

There is no doubt about the leadership's ability to bottle up the legislation. If Senator Mansfield says it will not move this year, it will not move. There must be a strong temptation to use this simple means to embarrass the administration. But it is a temptation that should be resisted.

The leadership's arguments in favor of procrastination are not very persuasive. The limited measure, which would permit the use of lottery procedure in the draft, was attacked by Senator Kennedy as a fraud on the young because it would not cure all the ills of the present system. Mansfield argued that action is impossible in this session because there is no time to reconcile the struggle between those who favor the administration move and those who want far-reaching reform of the draft laws.

No one in the administration has argued that the plan to pick 19-year-olds first under a lottery system is a cure for all the inequities of the draft. No one has presented the proposed amendment to the present law, which would remove the prohibition against a lottery, as an alternative to further sweeping reform in the next session of Congress.

It is not an either-or situation. The amendment should be passed now so that the most glaring inequities in the present law can be promptly eliminated. Then Congress should start the lengthy and complex debate on over-all reform.

The siren song of easy political gain is always a strong temptation. But in this case the apparent advantage may be wholly illusory. It is quite possible that the young voters-to-be will remember just who it was that blocked the way when a measure of relief was in sight, and will act accordingly.

[From the Boston Globe, Nov. 1, 1969]

MANSFIELD ERRS ON DRAFT LAW

An able and good man is Senate Majority Leader Mike Mansfield. The Montana Democrat has erred, however, in his refusal to let the Senate take up proposals to amend the draft law at this session of Congress. President Nixon is on the side of the angels in urging him to reconsider. He should.

The Mansfield argument, in which he is joined by Senate Armed Services Committee Chairman John C. Stennis and others, is that, if the draft law were to be called up for floor debate now, so many amendments would be offered that the Senate would have little time for anything else. But merely because a law is so outrageously defective that major repairs are required is no reason for letting it stand as is. It is a reason for getting to work.

To remedy one major defect of the law, the Senate needs but accept one simple amendment already approved by the House. This is a one-liner striking out of the 1967 law a provision that prohibits the President from using the random selection, or lottery system under which none but 19-year-olds would be drafted, thus limiting the period of a man's vulnerability to the draft to one year.

This is not the major surgery that is required. But it would at least make the law more palatable pending the time when Congress can get around to rewriting it.

The present mishmash in the Senate is largely a result of political jockeying between the White House and Congress and between the parties in Congress. This has gone on long enough. It is time for all sides to call quits to it.

Mr. GRIFFIN. Mr. President, will the Senator from Montana yield at that point?

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. I want to commend the Senator from Montana for his statement which includes at least a ray of hope concerning this very important legislative proposal of the President.

Obviously, if the record had stood as it did last Thursday, there would be very little reason or incentive for members of the Armed Services Committee to report legislation in view of an announcement which indicated it would not be considered anyway.

Now, at least, we do have the assurance of the majority leader, which I appreciate, that if the measure is reported from the committee, it will be brought before the Senate, which I think is progress and for which I commend the distinguished majority leader.

Mr. MANSFIELD. Who made the statement that if it was reported it would not be considered?

Mr. GRIFFIN. Well, I am not sure at all that anyone did, I say to the majority leader. I only say that that was the impression——

Mr. MANSFIELD. I see.

Mr. GRIFFIN (continuing). That was left; an unfortunate impression. Of course, as it happens, I am glad to have the matter straightened out.

Mr. MANSFIELD. I am delighted to have the opportunity to straighten the matter out because I want to assure the distinguished Senator and acting minority leader that any measure which is reported by the committee is given swift consideration by the policy committee. Insofar as the joint leadership is concerned, we endeavor to bring legislation up as rapidly as possible, once it is placed on the calendar. But neither leaders can do a thing unless a draft reform bill is reported from the Armed Services Committee and then placed on the calendar.

For example, we find that the Committee on the Judiciary some 3 weeks ago, reported the Haynsworth nomination. It will be another week or so before it will be placed on the calendar. I would have liked to have brought up the Haynsworth nomination a month ago, but until and unless that nomination, reported by the Judiciary Committee, is placed on the Executive Calendar, there is nothing the joint leaders can do.

I made my statement this morning for the purpose of setting the record straight because some people seem to have the idea that the Senator from Montana can withhold or push forward legislation. They credit me with too much power and authority when, as a matter of fact, I really have less authority than the other 99 Members of the Senate.

This leadership operates on the basis of cooperation, understanding, and tolerance, but there are certain rules which have to be followed and, No. 1 is that before a bill can be called up, it has to be on the calendar.

Mr. GRIFFIN. I think that is an important statement of the majority leader's position. It clarifies the situation as I understand it. Now, if draft reform does not come to the floor, it will not be because of any attitude on the part of the majority leader. It will be because the bill is not reported out of the committee. At least, the committee will not now have the excuse of pointing to any statement by the majority leader; committee members cannot say, in effect, that there is no point in us considering or reporting the bill because it will not come to the floor anyway. That was the impression I was concerned about as of last Thursday.

Mr. MANSFIELD. I appreciate the President's concern. Had I been in his shoes, perhaps I would have reacted similarly. But I think that the record should be made clear, and I think it is.

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT ON BUFFALO RAPIDS PROJECT, MONTANA

A letter from the Assistant Secretary of the Interior, reporting, pursuant to law, that the classification and approval of a small previously nonirrigated acreage in the Shirly Unit area, Buffalo Rapids project, Montana, has been made; to the Committee on Interior and Insular Affairs.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

Two letters from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens, together with a statement of the facts and pertinent provisions of law pertaining to each alien, and the reasons for ordering such suspension (with accompanying papers); to the Committee on the Judiciary.

REPORT OF THE COMMISSIONERS OF EDUCATION

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the 18th annual report of the Commissioners of Education on the administration of Public Laws 874 and 815, 81st Congress, as amended, for the fiscal year ended June 30, 1968 (with an accompanying two part report); to the Committee on Labor and Public Welfare.

PROPOSED AMENDMENT OF THE MENTAL RETARDATION FACILITIES AND COMMUNITY MENTAL HEALTH CENTERS CONSTRUCTION ACT OF 1963

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 to extend and improve the provisions relating to the construction and operation of community mental health facilities, and of specialized facilities for alcoholics and narcotic addicts, and for other purposes (with an accompanying paper); to the Committee on Labor and Public Welfare.

REPORT ON THE FEDERAL VOTING ASSISTANCE PROGRAM

A letter from the Deputy Coordinator, Federal Voting Assistance Program, transmitting, pursuant to law, the seventh report on the Federal Voting Assistance Program (with an accompanying report); to the Committee on Rules and Administration.

ANNUAL REPORT OF ESCUELA AGRICOLA PANAMERICANA

A letter from the Chairman, Development Committee, Escuela Agricola Panamericana, transmitting for the information of the Senate its annual report, for the year 1968 (with an accompanying report); to the Committee on Agriculture and Forestry.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the PRESIDENT pro tempore:

A petition, signed by Alfred S. Dyer, and sundry other citizens of the State of New York, praying for the enactment of a just and equitable tax bill; to the Committee on Finance.

The petition of Robert Bradford Murphy, of Leavenworth, Kans., praying for a redress of grievances; to the Committee on the Judiciary.

BILLS INTRODUCED

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

By Mr. SCOTT (for himself and Mr. SCHWEIKER):

S. 3099. A bill to provide that the U.S. district court for the eastern district of Pennsylvania shall be held at Allentown, Easton, Reading, and Philadelphia; to the Committee on the Judiciary.

By Mr. WILLIAMS of New Jersey (for himself, Mr. HARTKE, and Mr. MUSKIE):

S. 3100. A bill to increase the Social Security Act to provide increases in benefits under the old-age, survivors, and disability insurance program, to provide health insurance benefits for the disabled, and for other purposes; to the Committee on Finance.

(The remarks of Mr. WILLIAMS of New Jersey when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. DOMINICK:

S. 3101. A bill to amend section 403(c) of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963; to the Committee on Labor and Public Welfare.

(The remarks of Mr. DOMINICK when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. MAGNUSON (by request):

S. 3102. A bill to amend section 4 of the Fish and Wildlife Act of 1956, as amended, to extend the term during which the Secretary of the Interior can make fisheries loans under the Act; to the Committee on Commerce.

(The remarks of Mr. MAGNUSON when he introduced the bill appear later in the RECORD under the appropriate heading.)

S. 3100—INTRODUCTION OF THE SOCIAL SECURITY AMENDMENTS OF 1969

Mr. WILLIAMS of New Jersey. Mr. President, on behalf of myself and Senators HARTKE and MUSKIE, I introduce, for appropriate reference, a bill to amend the Social Security Act to provide increases in benefits under the old-age, survivors, and disability insurance program, to provide health insurance benefits for the disabled, and for other purposes.

This bill—endorsed by the National Council of Senior Citizens, the American Federation of Labor-Congress of Industrial Organizations, and the National Association of Social Workers—offers a comprehensive and realistic provision intended to help our social security system become markedly more effective in alle-

viating a worsening retirement income crisis which affects millions of Americans today and which threatens many more millions in the future.

The extent of that crisis—and the prospects for the future—have been the subject of intensive study and hearings by the Senate Special Committee on Aging during the past year. Perhaps the authoritative summation of the situation was provided by a distinguished task force which issued a working paper called "The Economics of Aging: Toward a Full Share in Abundance."

That document has caused a stir because it offers weighty evidence in support of a fundamental truth, and that truth is:

The economic problems of old age are not only unsolved for today's elderly, but they will not be solved for the elderly of the future—today's workers—unless this Nation takes positive, comprehensive actions going far beyond those of recent years.

To support that conclusion the task force offered economic facts of life for the elderly, including the following:

Half of single people living alone have incomes of less than $1,480, and one-fourth have $1,000 or less—1967 figure.

Families with an aged head of household: 50 percent less than $4,000; 20 percent below $2,000; 7 million people age 65 and over are living in poverty or near poverty.

The average social security benefit meets less than one-third of the needs spelled out in the Bureau of Labor Statistics "retired couples budget."

The "gap" between workers income and retirement income is widening—51 percent in 1961 and 46 percent in 1967.

Average social security payment—end of 1968—$98.90 for retired aged worker; $51.20 for the spouse; and $86.50 for the aged widow.

Widows: of 3.6 million women living alone, 2.1 million live in poverty.

The task force, while noting that the Nation's social security system has failed to keep up with the rising income needs of the aged, also said:

> The existing social insurance system is a fast and effective way to deliver an income assurance that carries commitments for the future, as well as for the current generation of the aged.

Thus, the task force envisioned a major role for an improved social security system in an overall program to improve the overall economic security of the elderly of today and in years to come.

As chairman of the Senate Special Committee on Aging, I have conducted several hearings on "The Economics of Aging" since the task force issued its report, and chairmen of three subcommittees have also conducted specialized hearings on consumer aspects, health aspects, and homeownership aspects of the economics of aging. Additional hearings are planned in the months ahead, but already we have received eloquent testimony about the grave problems related to inadequate retirement income.

We have heard from the elderly themselves.

We have heard from representatives of organizations related directly or indirectly to the field of aging.

We have heard from individual economists, other medical experts, and from representatives of many other disciplines. Their testimony, and testimony yet to come, will provide this Nation with the most compelling case yet made for the "positive, comprehensive actions" sought by the Committee on Aging task force.

The bill I am introducing today would go a long way toward assuring economic well-being for the elderly now, and in the future. If our social security system is to serve as the foundation for economic security now and in the future, we must move ahead without further delay to make fundamental changes.

My bill is identical to H.R. 14430, introduced by Congressman GILBERT, of New York, on October 21. The Congressman, the AFL-CIO, and the National Council of Senior Citizens deserve much praise for producing omnibus legislation which makes the most of funds now available in the trust fund while proposing new means of financing future improvements.

Without detailing the provisions of this bill, I will mention only a few of the major changes that should win the wholehearted endorsement of all those who are concerned that our social security system achieves its full potential.

BENEFIT LEVELS

Benefits would be increased substantially. The general level would be raised by 44 percent through a two-step increase, the first in January 1970, and the second in January 1972, with the minimum going to $120. The change in the minimum alone would remove a significant number of our aged people out of poverty.

Thereafter, benefits would be automatically adjusted annually for each 3 percent or more increase in the cost of living. Our task force report pointed out that for some social security beneficiaries, past increases in social security benefits have been too little and too late to catch up with rising prices. My proposal would correct this unfortunate situation after benefits have been raised to more nearly adequate levels, rather than merely perpetuating the inadequacy by automatically adjusting benefits that are too low by any reasonable standard.

Benefit levels of the future would also rise as a result of automatic increases in the maximum earnings that are taxed and credited for benefits.

MEDICARE

Beginning July 1970, my proposal would eliminate the supplementary medical insurance premium—now $4 monthly, and scheduled to rise—and provide for financing both hospital and medical insurance premiums through payroll taxes and a matching contribution by the Federal Government. Out of hospital prescription drugs would be covered.

Our committee's study has clearly indicated the need for these changes in order that medicare can more nearly fulfill its promise of lifting from the elderly some of the heavy burden of rising medical costs.

FEDERAL CONTRIBUTIONS

Among the most significant reforms is a proposal for general revenue sharing in the costs of social security. Our present method of relying solely on payroll taxes places a regressive tax on the Nation's workers. Unless we correct this deficiency, I do not believe we can achieve an adequate benefit level, now and for the future, that will be supported by today's workers.

Our present system involves heavy costs of paying full benefits to workers already close to retirement when first covered by the system. A Federal contribution—spelled out through a formula in the bill, so it is not subject to congressional whim—would have the effect of transferring these heavy costs from today's workers to a less regressive source of revenue, shared by the total population.

RELATION OF THIS BILL TO S. 2270, S. 2271, S. 2272, S. 2273, AND S. 2274

On May 27, 1969, I introduced five bills to amend the Social Security Act. I said:

> What I look for in the next few months, is the evolution of an omnibus bill, which will serve as a worthy vehicle for Congressional debate at the earliest possible date.
>
> Today, I am not introducing that omnibus bill. But, I am introducing several proposals which I regard as essential without which the final bill would be incomplete.

My earlier bill includes some provisions not incorporated in the comprehensive bill I am introducing today. They are, however, consistent with the objectives of this bill.

For the relationship of these earlier bills to today's bill, I submit a letter, written to Congressman MILLS, urging that the House Ways and Means Committee consider these bills at the same time as the Gilbert bill.

Perhaps several of my colleagues, especially those on our Special Committee on Aging, will wish to join me in sponsoring this important legislation. I ask unanimous consent that the RECORD include at this point an analysis of the bill I am introducing—identified as H.R. 14430, the bill introduced by Mr. GILBERT on October 21—and a comparison with the social security amendments proposed by the administration—H.R. 14080.

This useful comparison was prepared by Francis J. Crawley, Education and Public Welfare Division, Legislative Reference Service.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the analysis and comparison will be printed in the RECORD.

The bill (S. 3100) to amend the Social Security Act to provide increases in benefits under the old-age, survivors, and disability insurance program, to provide health insurance benefits for the disabled, and for other purposes, introduced by Mr. WILLIAMS of New Jersey (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Finance.

The analysis, presented by Mr. WILLIAMS of New Jersey, is as follows:

STATEMENT BY THE HONORABLE HARRISON A. WILLIAMS, JR.

The comprehensive hearings on Social Security legislation, which the House Ways and Means Committee is now holding, represent a timely opportunity for a thorough review of the present and potential roles of our social security system in assuring economic security to the nation's older population.

I think you know that the Senate Special Committee on Aging has been concentrating its attention on this subject during the past year.

In a report to the Committee entitled, "Economics of Aging: Toward a Full Share in Abundance", a distinguished Task Force concluded that the Social Security System "has failed to keep up with the rising income needs of the aged." The Task Force also said:

"The existing social insurance system is a fast and effective way to deliver an income assurance that carries commitments for the future as well as for the current generation of aged."

My preface to the Task Force report issued on March 24, 1969, pointed out:

"The economic problems of old age are not only unsolved for today's elderly, but they will not be solved for the elderly of the future—unless the nation takes positive, comprehensive actions going far beyond those of recent years."

The hearings which we have held on the Eocnomics of Aging have added to my conviction that the retirement income problems of today and tomorrow will not be solved by adding a few dollars every two years to social security benefits. It is clear that more fundamental changes in the Social Security System are needed to serve as the foundation for economic security now and in the future.

I urge therefore that the House Ways and Means Committee initiate the study of these more fundamental changes.

The revised Social Security bill that Congressman Gilbert has introduced on October 21 provides an excellent focal point for this study. There are other essentials to broad reform of the Social Security System—consistent with the objectives of Congressman Gilbert's bill—that I urge be considered simultaneously. These essentials are included in five bills to amend the Social Security Act that I introduced on May 27, 1969. At that time I said:

"What I look for in the next few months is the evolution of an omnibus bill which will serve as a worthy vehicle for Congressional debate at the earliest possible date.

"Today I am not introducing that omnibus bill. But I am introducing several proposals which I regard as essentials without which the final bill would be incomplete."

The relationship of my earlier bills to the bill Congressman Gilbert has introduced follows:

S. 2270 A bill to amend Title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record where that method of computation produced a higher combined benefit.

S. 2270 would eliminate a social security inequity against married couples were the wives work. The Gilbert bill does not deal with this problem and hence the proposal of S. 2270 is also needed as part of comprehensive reform.

S. 2271 A bill to provide for the conduct of certain studies by the Secretary of Health, Education and Welfare with respect to the insurance program established by Title II of the Social Security Act.

S. 2271 proposes three studies. The first of these is an analysis of various approaches to automatically adjusting benefits, including a cost-of-living adjustment. The bill Congressman Gilbert has introduced provides that benefit amounts would be automatically adjusted annually for each 1 per cent or more of increase in the cost-of-living. There is still need for the broad study proposed by S. 2271 which would encompass methods of adjusting benefits to productivity and rising standards of living and would also assess the appropriateness of the use of a cost-of-living index based on the needs and spending habits of the total population.

The second study proposed by S. 2271 related to general revenue financing. The fact that the Gilbert bill provides for general revenue financing gives assurance that careful attention will be given to this subject.

The third study proposed by S. 2271 concerns the trend toward retirement before age 65 and the effects of that trend upon individual social security beneficiaries. The Gilbert bill would lessen the actuarial reduction imposed on persons claiming benefits before age 65 but it does not eliminate the need for a broad study of the trend toward early retirement.

S. 2272 A bill to amend title II of the Social Security Act to increase the amount of the insurance benefits payable to widows and widowers.

S. 2272 would no longer be needed because the bill introduced by Congressman Gilbert raises the proportion from 82½ per cent to 100 per cent of the worker's benefit where the survivor's benefit begins at age 65.

S. 2273 A bill to amend Title II of the Social Security Act to increase the amount of earnings permitted each year without deductions from benefits thereunder.

S. 2273 would no longer be needed. The Gilbert bill proposes the same liberalization of the "retirement test" and in addition provides for automatic adjustment of the annual exempt amount of earnings under the retirement test.

Since introduction of S. 2273 I have become even more aware of the impact of the present retirement test on the participation of older workers in gainful employment. I hope the House Ways and Means Committee will address itself to two questions: (1) If benefits are raised as contemplated by the Gilbert bill, would pressures for the elimination of the retirement test be reduced? and (2) What additional costs would be involved in eliminating the retirement tests proposed by the Gilbert bill and proposed by President Nixon?

S. 2274 A bill to amend Title II of the Social Security Act so as to provide that remarriage shall not disqualify an individual from receiving widow's or widower's benefits thereunder.

S. 2274 would still be needed to deal fully with the problems of reduction or elimination of social security benefits on remarriage.

The comparison, presented by Mr. WILLIAMS of New Jersey, is as follows:

COMPARISON OF NEW OMNIBUS PROPOSAL—IDENTICAL TO H.R. 14430—H.R. 14080, AND THE PRESENT SOCIAL SECURITY ACT

EXISTING LAW	NEW OMNIBUS PROPOSAL—IDENTICAL TO H.R. 14430	H.R. 14080—ADMINISTRATION PROPOSAL
(a) Basic Amounts	*1. Benefit Amounts*	
Benefits for a worker beginning at age 65, range from $55 to $218. Benefits for dependents and survivors are based on these amounts.	Benefit amounts for the worker would be increased in 2 steps of 20% each: Beginning and range: January 1970, $90 to $293. January 1972, $120 to $537. Benefits for dependents and survivors would be increased proportionately.	All benefits would be increased by 10 per cent in March 1970. The increased benefits for a worker would range from $61 to $250.
	(b) Automatic Adjustment	
No provision.	Thereafter, benefit amounts would be automatically adjusted annually for each 3 percent or more of increase in the cost of living.	Same.
	(c) Actuarial Reduction	
Benefits for workers, and their wives or husbands, who start getting benefits before age 65 are payable at reduced rates. The benefits are reduced to an amount that will on the average give the same total lifetime benefits that would have been paid if the benefits had not begun until age 65. A worker's benefit at age 62 is 80 percent of the benefit he would have gotten at age 65; a wife's or dependent husband's benefit is 75 percent of the amount payable at age 65.	Smaller reductions would be made. A worker's benefit at age 62 would be 85 percent of the unreduced amount; a wife's or husband's, 82½ percent.	Same as H.R. 14430. No provision.

COMPARISON OF NEW OMNIBUS PROPOSAL—IDENTICAL TO H.R. 14430—H.R. 14080, AND THE PRESENT SOCIAL SECURITY ACT—Continued

EXISTING LAW—continued	NEW OMNIBUS PROPOSAL—IDENTICAL TO H.R. 14430—continued	H.R. 14080—ADMINISTRATION PROPOSAL—continued
	1. Benefit Amounts—Continued	
(d) Widow's and Widower's Benefits		
Benefits beginning at or after age 62 are equal to 82½ percent of the benefit amount that would be payable to the deceased spouse.	The amount payable where benefits begin at or after age 65 would be equal to 100 percent of the benefit amount that would be payable to the deceased spouse. Benefits beginning before age 65 would be reduced; where benefits begin at age 62 the benefit amount would be equal to 82½ percent of the benefit of the deceased spouse.	Same as H.R. 14430.
	(e) Disabled Widow's and Widower's Benefits	
Disabled widows and widowers can get benefits at or after age 50. Where benefits begin before age 62, the benefit amounts are reduced.	Benefits would be payable to a disabled widow or widower at any age. No reduction would be made in benefits that begin before age 62; the benefit amount would be 82½ percent of the deceased spouse's benefit, the amount payable under present law and under the bill to a widow who begins getting her benefits at age 62.	No provision for disabled widows and widowers.
	(f) Dependent Parents' Benefits	
Benefits are provided for the dependent parents of deceased workers.	Benefits would be payable to dependent parents of disabled and retired workers.	Same as H.R. 14430.
	(g) Disabled Child's Benefits	
Benefits are provided for the disabled child of a worker provided that the disability begins before age 18.	Benefits would be provided for the disabled child of a worker provided that the disability begins before age 22, rather than age 18.	Same as H.R. 14430.
	(h) Special age-72 payments	
Certain people who reach age 72 before 1972 and who have not worked under social security long enough to get regular benefits can get special payments of: $40 for an individual; $60 for a couple.	The special payments would be increased in 2 steps: Beginning: *Individual* *Couple* January 1970 $48.00 $72.00 January 1972 57.60 86.00	The special benefits would be increased to $44 for an individual and to $66 for a couple in March 1970.
	(i) Lump sum death payment	
Equal to 3 times the worker's benefit amount but not more than $255. Range: $165 to $255.	The $255 limit would be increased to $500.	No provision.
	2. Benefit computations	
All social security benefit amounts are based on the insured worker's average monthly earnings. Nearly all benefits are now based on average monthly earnings after 1950—figured over 5 less than the number of years after 1950 and up to the year the worker reaches age 65 (62 for women), becomes disabled or dies.	The number of years used in figuring the worker's average monthly earnings would be reduced by ⅓ beginning in December 1970, and to his best 10 years out of any 15 consecutive years beginning in December 1972. The average monthly earnings figured over the shortened periods would be adjusted to take account of the length of time the person worked under social security.	No provision.
Average monthly earnings for a man are determined over a period of years ending at age 65, while for a woman it is determined over a period of years ending at age 62, earnings after age 65, or 62, may be substituted for earnings before those ages.	Average earnings for men would be determined over a period of years ending at age 62 as is provided in existing law for women.	Same as H.R. 14430.
	3. Earnings test	
No benefits are withheld on annual earnings of $1,680 or less. For earnings up to $1,200 above $1,680 (i.e., $2,880), $1 is withheld for each $2 of earnings, and for additional earnings $1 is withheld for each $1 of earnings, except that no benefits are withheld for any month in which a person does not earn more than $140 in wages nor render substantial services in self-employment.	No benefit would be withheld on earnings of $1,800 or less. For earnings up to $1,200 above $1,800 (i.e., $3,000) $1 would be withheld for each $2 of earnings, and for additional earnings $3 would be withheld for each $4 of earnings, except that no benefits would be withheld for any month in which a person does not earn more than $150 in wages nor render substantial services in self-employment.	No benefits would be withheld on earnings of $1,800 or less. For earnings above $1,800, $1 would be withheld for each $2 of earnings. However, no benefits would be withheld for any month in which a person does not earn more than $150 in wages nor render substantial services in self-employment.
No provision for automatic increases.	Beginning in 1973, the $1,800 and $150 amounts specified above would be automatically increased as average earnings levels rise.	Same as H.R. 14430.
	4. Disability provisions	
Benefits cannot be paid until after a 6-month waiting period, and are payable only if the disability is expected to last for at least 12 months or to result in death.	The waiting period would be reduced from 6 to 3 months, and the requirement that the disability must be expected to last 12 months or to result in death would be eliminated.	No provision.
Workers must be unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment.	Workers aged 55–64 could qualify if unable to engage in substantial gainful activity (by reason of a medically determinable physical or mental impairment) in their regular work or in any other work in which they have engaged with some regularity in the recent past.	No provision.

COMPARISON OF NEW OMNIBUS PROPOSAL—IDENTICAL TO H.R. 14430—H.R. 14080, AND THE PRESENT SOCIAL SECURITY ACT—Continued

EXISTING LAW—continued	NEW OMNIBUS PROPOSAL—IDENTICAL TO H.R. 14430—continued	H.R. 14080—ADMINISTRATION PROPOSAL—continued
	5. Medicare	
	(a) Financing	
Hospital insurance is financed by contributions from employers, employees, and the self-employed. Supplementary medical insurance is financed by monthly premiums paid by enrollees and matched by the Federal Government. Moneys are deposited in, and benefits and administrative expenses are paid from, 2 separate trust funds, Eligibility for hospital insurance is based on eligibility for cash benefits (except for a special transitional provision) while medical insurance is available to virtually all those over 65.	Beginning July 1970, would eliminate supplementary medical insurance premiums and provide for financing both hospital and medical insurance programs through contributions of employers, employees, and the self-employed, and a matching contribution by the Federal Government. All moneys would go into a combined trust fund, which would pay the benefits and administrative expenses of both programs. Eligibility requirements for both hospital and medical insurance would be identical to that required under existing law for hospital insurance.	No provision.
	(b) Medicare for disabled beneficiaries	
Medicare is available only to people age 65 and over (without regard to disability).	Would extend medicare, under the combined financing approach described above, to people under age 65 entitled to monthly cash disability benefits. Benefits would begin with the first month for which the individual is eligible for cash benefits and end 12 months after cash benefits cease.	No provision.
	(c) Drug coverage	
Generally, drugs are covered only if they are provided in a hospital or an extended-care facility. Drugs are covered on an outpatient basis only if the drug is one which cannot be self-administered.	Would extend coverage of out-of-hospital prescription drugs under hospital insurance program. Drugs covered would be selected by the Secretary with the advice of an expert committee provided for by the bill. Reimbursement would be made to providers of drugs (pharmacies, etc.) on the basis of acquisition and dispensing allowances. The beneficiary would be required to make a $1 co-payment per prescription or per refill.	No provision.
	6. Military service credits	
Military basic pay has been covered under social security since January 1, 1957. For service from September 1940 through December 1956 noncontributory credits of $160 a month are provided. For service after 1967 noncontributory credits of $100 a month are provided. There are no noncontributory credits for service performed from January 1957 through December 1967.	Noncontributory credits of $100 a month would be provided for service performed from January 1957 through December 1967.	Same as H.R. 14430.
	7. Contribution and benefit base	
The amount of annual earnings on which social security contributions are payable and that can be counted toward benefits is $7,800. No provision for automatic increases.	The amount of annual earnings to be counted for contribution and benefit purposes would be increased as follows: To $9,000 for 1970 and 1971; To $15,000 for 1972; and For years after 1972, the annual earnings amount would be automatically increased (in even-numbered years) as average earnings levels rise.	The amount of annual earnings to be counted for contribution and benefit purposes would be increased to $9,000 for 1972. Beginning in 1974 the base would be automatically increased as wage levels rise.
	8. Contribution rate schedule	

EMPLOYER-EMPLOYEE, EACH (PERCENT)

Year	OASDI	HI	Total
1970	4.20	0.60	4.80
1971-72	4.60	.60	5.20
1973-75	5.00	.65	5.65
1976-79	5.00	.70	5.70
1980-86	5.00	.80	5.80
1987 and after	5.00	.90	5.90

SELF-EMPLOYED (PERCENT)

Year	OASDI	HI	Total
1970	6.30	0.60	6.90
1971-72	6.90	.60	7.50
1973-75	7.00	.65	7.65
1976-79	7.00	.70	7.70
1980-86	7.00	.80	7.80
1987 and after	7.00	.90	7.90

EMPLOYER-EMPLOYEE, EACH (PERCENT)

Year	OASDI	HI	Total
1970	4.20	0.60	4.80
1971-72	4.80	.65	5.45
1973 and after	5.10	.90	6.00

SELF-EMPLOYED (PERCENT)

Year	OASDI	HI	Total
1970	6.30	0.60	6.90
1971-72	6.90	.65	7.55
1973 and after	7.10	.90	8.00

EMPLOYER-EMPLOYEE, EACH (PERCENT)

Year	OASDI	HI	Total
1970	8.4	1.2	9.6
1971-72	8.4	1.8	10.2
1973-74	8.4	1.8	10.2
1975-76	9.2	1.8	11.0
1977-79	9.6	1.8	11.4
1980-86	9.8	1.8	11.6
1987 and after	10.0	1.8	11.8

SELF-EMPLOYED (PERCENT)

Year	OASDI	HI	Total
1970	6.3	0.60	6.9
1971-72	6.3	.90	7.2
1973-74	6.3	.90	7.2
1975-76	6.9	.90	7.8
1977-79	7.0	.90	7.9
1980-86	7.0	.90	7.9
1987 and after	7.0	.90	7.9

	9. Federal contrbiutions	
No provision.	General revenue contributions equaling specified percentages of payroll taxes and gradually increasing over a 10-year period to an amount equal to approximately ⅓ the total cost of the program.	No provision.

Mr. HARTKE. Mr. President, I am especially pleased to cosponsor the social security legislation introduced today by the distinguished Senator from New Jersey (Mr. WILLIAMS). I view this legislation as an intelligent and broad-based attempt to cure many of the inequities that plague our present social security system.

With prices rising today at an annual rate of 7.2 percent, inflation is rapidly eating up the gains of average Americans. But it hits hardest at those groups which have a fixed income. The aged, especially, are cruelly caught in the vise of fixed income and rising costs. Like a prisoner living in an ever-contracting cell, the elderly American living on social security finds his payments increasingly inadequate. Millions of older Americans who worked hard for many years and paid their fair share into social security, now discover that the payments they receive keep them barely above the poverty level.

After a lifetime of supporting the economy of this country, aged Americans deserve to spend their few remaining years in modest dignity.

On June 17 of this year I introduced the Omnibus Social Security Amendments of 1969, S. 2424, which are intended as a modernization of the Social Security Act. In some respects that legisiation parallels in its intended effect the legislation introduced here today. However, I believe it is incumbent on all of us in the Senate who hope for improvement in the Social Security Act to lend our support to any legislative efforts which hold out the promise of success.

S. 3101—INTRODUCTION OF A BILL TO PROVIDE FOR THE CARRYOVER OF ADMINISTRATION FUNDS FOR MENTAL HEALTH CENTERS

Mr. DOMINICK. Mr. President, our community mental health centers programs has hit a snag.

Most States are not receiving money, as we intended, to strengthen their staff with qualified personnel and prepare State construction plans.

The source of the difficulty is the varied interpretations which have been given to existing law.

Funds for construction of community mental health centers are allotted to the States under section 202(a) of the Mental Retardation Facilities and Community Mental Health Centers Construction Act. Construction money is available not only for the year in which allotted, but for the "next fiscal year."

Funds for administration of the State plan, however, are being given different treatment. Last year a new provision, section 403(c)(1) was added to the act to provide money to the States for the "proper and efficient administration" of the State construction plan. The amount for each State is 2 percent of the construction allotment for that State, or $50,000, whichever is lower. It can be used to pay up to one-half of each State's administration expenses. Unfortunately, no specific provision was included to permit use of administration money in the fiscal year following the year of allotment.

In short, construction money can carry over 1 additional fiscal year, but administration money—earmarked for qualified planning personnel and oversight—cannot. This seems even more unusual in this instance since the latter is a part of the former.

Aside from the question of carryover, a second roadblock has arisen. Officials at HEW hold that the administration money is only for reimbursement to the States for expenses already incurred. This is in spite of the fact that the law provides for payments "in advance" as well as by reimbursement.

The consequences have been serious, and surely were not contemplated by the Congress. For example, Dr. Hans Schapire, Chief of the Division of Mental Health for Colorado, writes:

> For many months the Mental Health Division of the Colorado State Department of Institutions had been in contact with staff of the Regional Office and with some staff of the National Institute of Mental Health, making repeated inquiries as to guidelines for administration of these funds. In states such as Colorado, the absence of qualified personnel on Central Office staff had been most keenly felt in the painful preparation of the original State Plan for the Construction of Community Mental Health Centers and of its annual revisions. We therefore felt that the 2% would afford us an opportunity to strengthen our state level staff for the purpose of assisting in the reparation of a reliable data base to be utilized in the preparation of the Plan.
>
> Finally on June 26, 1969, we received a letter from Dr. Alan I. Levenson, telling us what our state's allocation for fiscal 1969 was and encouraging us to prepare a brief plan to be submitted to the Regional Office prior to June 30, 1969. This last minute request, which gave us exactly four days including a weekend, in itself presented a hardship to our over-worked staff. However, we did what was requested of us, were able to obtain the support of the State Health Department, which is the single State agency administering the construction funds, and had our proposal in the hands of the Regional Office by June 30. Twenty-four hours later, we were informed by the Regional Office that the funds allocated to us could be used only to reimburse us for expenditures already incurred during the fiscal year 1969. Up to that time, the understanding of the Regional Office staff had been that the administrative allowance of 2% for fiscal year 1969 could be used to meet expenses in the 1970 fiscal year. The reimbursement arrangement was obviously of no help to the Mental Health Division and would have accomplished what Congress never intended to do, namely to replace State funds with Federal funds. Had we accepted the funds under these conditions, we would have had to turn them back to the General Fund of the State of Colorado.

But Colorado is not alone. Only 10 States were able to get the 2 percent administration money in fiscal 1969.

A bill I am introducing today would correct this situation by permitting the carryover of administration money for 1 year.

It might be said this is an advance funding provision to help States develop sound construction plans. Delay in appropriations means delay in State allotments. Indeed, it may be the second session of the 91st Congress before the Labor-HEW appropriations bill is sent to the White House. Four months of fiscal year 1970 have already gone by and the States are without the Federal share of money for administration.

We already have a similar carryover provision under 314(a)(4) of the Public Health Service Act to assist States in connection with comprehensive health planning.

Planning for Community Mental Health Centers deserves no less.

I send my bill to the desk for appropriate reference, and ask unanimous consent that it be printed in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD in accordance with the Senator's request.

The bill (S. 3101), to amend section 403(c) of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, introduced by Mr. DOMINICK, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 403(c)(1) of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 is amended—

(1) by inserting "for any fiscal year" immediately after "title II";

(2) by striking out "during such year";

(3) by striking out "for a year" and inserting in lieu thereof "for any fiscal year"; and

(4) by striking out "for such year".

(b) Section 403(c)(1) of such Act is further amended by inserting immediately after the first sentence thereof the following new sentence: "Amounts made available to any State under this paragraph from its allotment or allotments under part A of title II for any fiscal year shall be available only for such fiscal year and for the following fiscal year".

S. 3102—INTRODUCTION OF A BILL RELATING TO FISHERY LOAN EXTENSION

Mr. MAGNUSON. Mr. President, by request, I introduce, for appropriate reference, a bill to amend section 4 of the Fish and Wildlife Act of 1956 as amended, to extend the term during which the Secretary of the Interior can make fisheries loans under the act.

The original authority was provided in 1956 because conventional long-term financing was not readily available to owners of fishing vessels. Banks and other private lending institutions feared the instability of loans based solely on commercial fishing earnings as collateral for repayment. The Small Business Administration expressed reluctance for the same reason.

The Secretary of the Interior was granted the authority as a result of the expertise which could be provided within that Department.

Since December 1956, annual losses have been held to less than 1 percent of the average outstanding balance. The situation confronting the fishing industry is virtually the same as in 1956 and the need is apparent for extension of this authority.

I ask unanimous consent that a letter from the Acting Secretary of the Interior, requesting this proposed legislation, be printed in the RECORD.

The PRESIDENT pro tempore. The

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

The bill (S. 3102) to amend section 4 of the Fish and Wildlife Act of 1956, as amended, to extend the term during which the Secretary of the Interior can make fisheries loans under the act, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Commerce.

The letter, presented by Mr. Magnuson, is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 19, 1969.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill "To amend section 4 of the Fish and Wildlife Act of 1956, as amended, to extend the term during which the Secretary of the Interior can make fisheries loans under the Act."

We recommend that this bill be referred to the appropriate committee for consideration and we recommend that it be enacted.

The authority for making fisheries loans was originally provided in 1956 because conventional long-term financing was not readily available to the owners of fishing vessels. Banks and other private lending institutions believed that the fishing industry was generally too unstable for loans that were based solely on fishing vessels as collateral and as a source of earnings for repayment. For the same reason applications for loans from the Small Business Administration had generally been declined. As a result, the authority for making loans of this type was given to the Secretary of the Interior so that expertise in fisheries could be provided. During the period since December 1956, when the first loan was approved, annual losses have been held to less than one percent of the average outstanding balance, largely due to the specialized servicing provided by the fishery specialists handling the program. The situation regarding the availability of credit is about the same as it was in 1956.

This proposed bill merely extends the expiration date of section 4 of the Fish and Wildlife Act of 1956 from June 30, 1970, to June 30, 1980.

The Bureau of the Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely yours,
RUSSELL E. TRAIN,
Acting Secretary of the Interior.

ADDITIONAL COSPONSORS OF BILLS

S. 1588

Mr. MAGNUSON. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from California (Mr. MURPHY) be added as a cosponsor of S. 1588, to amend the Public Health Service Act to provide for the establishment of a National Institute of Marine Medicine and Pharmacology in the National Institutes of Health.

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

S. 2802

Mr. MAGNUSON. Mr. President, I ask unanimous consent that, at the next printing, the name of the junior Senator from Rhode Island (Mr. PELL) be added as a cosponsor of S. 2802, to assist the States in establishing coastal zone management programs.

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

S. 2804

Mr. MAGNUSON. Mr. President, I ask unanimous consent that, at the next printing, the Senator from Wyoming (Mr. HANSEN) be added as a cosponsor of S. 2804, to permit a compact between the several States relating to taxation of multistate taxpayers.

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

S. 2893

Mr. MOSS. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Oklahoma (Mr. HARRIS) be added as a cosponsor of S. 2893, to amend the act of June 27, 1960—74 Stat. 220—relating to the preservation of historical and archeological data.

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

SENATE CONCURRENT RESOLUTION 44—SUBMISSION OF A CONCURRENT RESOLUTION TO AUTHORIZE THE PRINTING OF A MANUSCRIPT ENTITLED "SEPARATION OF POWERS AND THE INDEPENDENT AGENCIES: CASES AND SELECTED READINGS" AS A SENATE DOCUMENT

Mr. ERVIN (for himself and Mr. HRUSKA) submitted the following concurrent resolution (S. Con. Res. 44); which was referred to the Committee on Rules and Administration:

S. CON. RES. 44

Resolved by the Senate (the House of Representatives concurring), That the manuscript entitled "Separation of Powers and the Independent Agencies: Cases and Selected Readings", prepared for the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary by the Legislative Reference Service of the Library of Congress, be printed as a Senate document.

SEC. 2. There shall be printed for the use of the Senate Committee on the Judiciary one thousand additional copies of the document authorized by Section 1 of this concurrent resolution.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 41

Mr. MANSFIELD. Mr. President, on behalf of the senior Senator; from Alabama (Mr. SPARKMAN), I ask unanimous concent that, at the next printing, the names of the Senator from California (Mr. MURPHY) and the Senator from Pennsylvania (Mr. SCOTT), be added as cosponsors of Senate Concurrent Resolution 41, urging the adoption of policies to offset the adverse effects of governmental monetary restrictions upon the housing industry.

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

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969—AMENDMENTS

AMENDMENT NO. 261

Mr. WILLIAMS of New Jersey. Mr. President, I submit today an amendment to S. 2218 in order to amend Public Law 81-874, the act which provides aid to school districts where the student population is increased by Federal activity. My amendment would expand the definition of Federal activity to include an influx of refugees admitted from another nation to this country. This is an amendment to S. 2218, amendments to the Elementary and Secondary Education Act of 1965.

This measure would amend section 3(b) of the act by authorizing Federal assistance to school districts where free public education was provided to the children of refugees, as defined by the Migration and Refugee Assistance Act of 1962. It also amends section 3(c) of the act by stipulating that such Federal assistance shall be made available only in cases where the number of refugee children accounts for 20 percent or more of the total student population.

Mr. President, this amendment is a companion measure to a bill introduced in the House of Representatives by Representative DOMINICK V. DANIELS, Democrat, 14th District, of New Jersey. Representative DANIELS' district includes Union City and West New York, N.J.: two towns where a sudden and dramatic influx of Cuban refugees has put a tremendous strain on public educational facilities. The need of these communities is great, and the educational need of the children of these refugees from Castro's Cuba is greater still.

In point of fact, the resettled refugee population of Union City is greater than that found in 44 of the 50 States. Because of these extra burdens on the educational system, children find themselves going to school in attics, basements, and even a swimming pool. The school districts must maintain bilingual instructors. In many cases, learning disadvantages are compounded; the children are illiterate in both Spanish and English.

In the face of these serious problems, the Federal Government must assume some of the burden of educating the children of refugees. Entry into this country was a demonstration of American compassion and responsibility for oppressed peoples; now, we must back up our concern with assistance to the school districts where the burden is most acute.

Mr. President, the school districts of Union City and West New York have prepared some statistical materials to illustrate the situation. I ask that they be printed in the RECORD at this point, along with the text of the amendment.

The PRESIDENT pro tempore. The amendment will be received, printed, and appropriately referred; and, without objection, the amendment and statistical materials will be printed in the RECORD.

The amendment (No. 261) was referred to the Committee on Labor and Public Welfare, as follows:

AMENDMENT NO. 261

At the proper place in the bill, insert the following:

"SECTION 1. Section 3(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out the second sentence and inserting in lieu thereof the following: 'The Commissioner shall also determine the number of children (other than children to whom subsection (a) or any other provision of this subsection applies) who were in average daily attendance at the schools of a local educational agency and for whom such agency provided free public education, during such fiscal year,

and who, while in attendance at such schools resided with a parent who was, at any time during the three year period immediately preceding the fiscal year for which the determination is made, a refugee who meets the requirements of section 2(b)(3)(A) and (B) of the Migration and Refugee Assistance Act of 1962.'.

"SEC. 2. Section 2(c)(2) of such Act is amended (1) by inserting before 'subsection (b)' both times it appears the following: 'the first sentence of', and (2) by inserting after 'to whom such subsection' the following: 'or such sentence'.

"SEC. 3. Section 3(c) of such Act is amended by inserting after paragraph (2) the following new paragraph:

"'(3) No local educational agency shall be entitled to receive any payment for a fiscal year with respect to a number of children determined under the second sentence of subsection (b) unless the number of children who were in average daily attendance to whom such sentence applies amounts to 20 per centum or more of the number of children who were in average daily attendance during such year and for whom such agency provided free public education, but in determining the number of such children under such second sentence no child shall be counted with respect to whose education a payment was made under section 2(b)(4) of the Migration and Refugee Assistance Act of 1962.'

"SEC. 4. (a) The center heading of section 3 of such Act is amended by adding at the end thereof '; REFUGEE CHILDREN'.

"(b) The center heading of subsection (b) of section 3 of such Act is amended by adding at the end thereof '; REFUGEE CHILDREN'."

The statistical material, presented by Mr. WILLIAMS of New Jersey, is as follows:

I. DATA SUBMITTED BY BOARDS OF EDUCATION, UNION CITY AND WEST NEW YORK, HUDSON COUNTY, N.J.

City	Total public school enrollment	Number children of Cuban descent	Number Cuban children whose parents are citizens	Number Cuban children whose parents are refugee/noncitizens
Union City	8,655	3,452	390	3,062
West New York	6,102	3,260	386	2,874
Total	14,757	6,712	776	5,936

Survey: Sept. 15, 1969, total public school enrollment, number of children of Cuban descent, number of Cuban children whose parents are citizens, number of Cuban children whose parents are refugee/noncitizens.

Percent of Cuban students in total public school population as of Sept. 15, 1969 ..... 45.4

Percent of Cuban students whose parents are citizens of the United States 12

Percent of Cuban students whose parents are refugee/noncitizens 88

UNION CITY BOARD OF EDUCATION, UNION CITY, N.J.

Elementary schools	Total enrollment	Number children of Cuban descent	Number children whose parents are citizens	Number children whose parents are refugee/noncitizens
Edison	1,337	424	61	363
Gilmore	565	141	12	129
Hudson	623	146	11	135
Jefferson	817	274	43	231
Roosevelt	1,100	681	86	595
Washington	1,035	542	77	465
R. Waters	1,100	553	49	504
Total	6,587	2,761	339	2,422
High schools				
Emerson	995	508	7	501
Union Hill	1,073	183	44	139
Total	2,068	691	51	640
Grand total	8,655	3,452	390	3,062

Survey: As of Sept. 15, 1969, total public school enrollment, number children of Cuban descent, number of children whose parents are citizens, number of children whose parents are refugee/noncitizens.

Percent of Cuban students in Union City public school population as of Sept. 15, 1969 40

Percent of Cuban students whose parents are citizens of the United States 12

Percent of Cuban students whose parents are refugee/noncitizens 88

CENSUS: SPANISH SPEAKING PUPILS, WEST NEW YORK PUBLIC SCHOOLS, SEPTEMBER 24, 1969

[Spanish speaking includes those who speak only Spanish as well as those who can communicate in English]

Elementary school	Total enrollment	Number children of Cuban descent	Number children whose parents are citizens	Number children whose parents are refugee/noncitizens	Number of Spanish Americans	Number of Cuban Americans	Number of Puerto Ricans	Spanish total
School No. 1	686	238	48	190	13	5	19	275
School No. 3	475	161	18	143	18	12	16	207
School No. 4	751	446	48	398	13	12	14	485
School No. 5	1,496	1,145	116	1,029	36	11	31	1,223
H. L. Bain	1,095	498	57	441	42	18	14	572
Elementary total	4,503	2,488	287	2,201	122	58	94	2,762
High school	1,599	772	99	673	51	20	36	879
Grand total	6,102	3,260	386	2,874	173	78	130	3,641

Percent of Cuban students in West New York public school population as of Sept. 15, 1969 54

Percent of Cuban students whose parents are citizens of the United States 12

Percent of Cuban students whose parents are refugee noncitizens 88

II

1. Forty-four states have fewer resettlements than Union City. The exceptions are: New York, New Jersey, California, Illinois, Massachusetts, Florida, and Puerto Rico.

2. Four states have more than Florida, which has 8,037. The following states have more cuban refugees than Florida: New York (62,591), New Jersey (38,901), California (27,088), Illinois (16,362).

3. U.S. cities with more than 1,000 Cuban refugees:

State	Number of resettlements	Percent of 1960 population
California:		
Los Angeles	18,293	0.74
San Francisco	1,388	.18
Colorado: Denver	1,117	.22
Washington, D.C.	2,076	.27
Florida: Tampa	2,657	.96
Georgia: Atlanta	1,129	.23
Illinois: Chicago	15,062	.42
Louisiana: New Orleans	4,813	.76
Massachusetts: Boston	3,721	0.53
Nevada: Las Vegas	1,055	1.63
New Jersey:		
Elizabeth	3,378	3.13
Hoboken	1,110	2.29
Newark	18,110	4.46
Union City	6,153	11.79
West New York	3,740	10.52
New York:		
Bronx	3,088	.21
Brooklyn	6,706	.25
New York	42,340	2.49
Pennsylvania: Philadelphia	1,762	.08
Texas:		
Dallas	1,518	.22
Houston	1,171	.12

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on October 31, 1969, he presented to the President of the United States the following enrolled bills and joint resolutions:

S. 73. An act to amend the act entitled "An act to authorize the sale and exchange of isolated tracts of tribal land on the Rosebud Sioux Indian Reservation, South Dakota";

S. 267. An act for the relief of Lt. Col. Samuel J. Cole, U.S. Army (retired); and

S.J. Res. 164. Joint resolution to provide for a temporary extension of the authority conferred by the Export Control Act of 1949.

DRAFT HEARINGS—SCHEDULE CHANGE

Mr. KENNEDY. Mr. President, may I announce a schedule and witness change for the hearings on the administration of the Selective Service System. The Subcommittee on Administrative Practice and Procedure began these hearings last week, and will continue them through next week.

I previously announced that the hearings on Tuesday, November 4, would start at 10:30 a.m. Instead, the hearings will begin at 2 p.m., and will be held in room 4200. The previously announced witnesses for November 4, Prof. Gary Wamsley and Prof. James Davis, will appear at that time.

In addition, Mr. Marion S. Barry, executive director of Pride, Inc., of Washington, D.C., will appear as a witness.

JACK ANDERSON ARTICLE ON THE MENACE OF THE PRIVATE PLANE BASED ON IMPERFECT RESEARCH

Mr. DOMINICK. Mr. President, Jack Anderson has given us another example of the shallow depth of the research on which he bases some of his articles that are given nationwide publication. In the newspaper supplement, Parade, of Sunday, October 26, Mr. Anderson's article was titled: "The Growing Menace of the Private Plane." It contains such scare statements as the following opening lines:

> An unseen pilot hovers in the crowded skies above the nation's airports. He is there with the official consent of the U.S. government. His name is instant death.
>
> The next time this sinister pilot strikes, the chances are he will be flying a private plane.

Further on in the article, he really demonstrates his disdain for the facts in discussing the tragic accident which occurred on September 9, 1969, near Indianapolis, Ind. Anderson states, flatly:

> It was a student, with only 38 hours in the air, who rammed into an airliner in September over the Indianapolis airport while making a practice pass at the runway. The student and 82 persons aboard the airliner were killed.

If he had bothered to check the facts, Jack Anderson would have found that the accident did not happen "over the Indianapolis airport," as he says it did, but actually happened 20 miles away from the airport, a considerable distance outside the traffic pattern of that airport.

Mr. Anderson's language conjures up an image of the private plane deliberately diving into the airliner, seemingly in a race to see who would reach the runway first. Again, this is not borne out by the facts uncovered by the Department of Transportation investigation following the accident. The subsequent findings of this investigation reveal that it is more likely that the descending airliner, flying several times faster than the private plane, struck the light plane which had been flying at a lower altitude than the airliner.

Anderson further demonstrates his lack of knowledge on aviation matters when he makes the following statement:

> Few private planes are equipped with radar, to act as extra eyes for the pilot. And few private planes carry transponders, which return a strong, clear signal to air controllers on the ground.

Mr. President, not even the radars carried on our largest commercial airliners are designed to spot other aircraft. Unlike the large, ground-based radars, airborne radar is designed and used to help the pilot avoid bad weather and navigate around thunderstorms.

With regard to the number of planes equipped with transponders, Mr. Anderson should have checked the breakdown between commercial and private aviation. He would have found that 98 percent of all the aircraft in the country consist of general aviation, very few of which are used purely for pleasure. These general aviation aircraft owners have now purchased 10 times as many transponders as all the airline transports in the world added together. If every general aviation aircraft owner with interest in using any one of the 120 proposed hub airports should buy and use a transponder on IFR flights, there would be a complete breakdown in the air traffic control systems. At the present time, if a pilot is flying VFR in the New York or Boston areas with a transponder and asks for radar advice for collision avoidance, the ground operator generally says that they are too busy to give it and then asks that the pilot turn off his transponder as it is interfering with IFR operations. If this is true at the present time, imagine the chaos that would exist if the proposed FAA regulation is adopted requiring all private planes to be equipped with and use a transponder around all hub airports.

The aviation editor of the Wichita Eagle and Wichita Beacon, Mr. Arnold Lewis, did some in-depth checking on the charges of villainy made against private aviation by Mr. Anderson and came up with some interesting findings. For one thing, he discovered that the photograph at the beginning of the Anderson article was apparently intended to depict five of the types of aircraft which constitute "The Growing Menace of the Private Plane." Checking the official FAA records on each of the aircraft pictured, Mr. Lewis found that each one was equipped with transponder, radar, distance measuring equipment, autopilot, redundant communications, and navigation systems, and "in essence were equipped comparably or better than the two commercial jetliners shown in the background."

Mr. Lewis also points out that Jack Anderson appears uninformed on exactly what general aviation is and the progress being made through cooperative efforts of the entire aviation community and Federal Government toward a modern and workable airport-airways system. Or, that private planes, serving 10,000 U.S. airports annually carry as many or more people than all domestic commercial airlines using approximately 650 airports. He points out that indeed, these private planes are waiting for the navigation, air traffic control, and Federal communications system to catch up so equipment they have installed can be used on any airport in the United States. Most businesses and corporations utilizing their own private aircraft today also are heavy users of the commercial airlines. Therefore, whether public or private, air safety is of vital concern to everyone.

Mr. President, I think that Mr. Anderson's article for Parade magazine is a good example of the old axiom which says: "A little knowledge is a dangerous thing." It is doubly true when the shallowness of that knowledge appears in public print.

I ask unanimous consent that Mr. Anderson's article be printed in the RECORD, together with the very well done critique by Mr. Arnold Lewis entitled, "Is Private Plane Villain of Sky, or Victim of Outdated System," published in the Wichita Eagle of October 26, 1969, and a letter to the editor published in the Washington Post of Sunday, November 2, 1969, written by Fletcher Cox, Jr., assistant director, publications and promotion, National Business Aircraft Association, which I believe is very pertinent.

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

[From Parade, Oct. 26, 1969]

THE GROWING MENACE OF THE PRIVATE PLANE

(By Jack Anderson)

WASHINGTON, D.C.—An unseen pilot hovers in the crowded skies above the nation's airports. He is there with the official consent of the U.S. government. His name is instant death.

The next time this sinister pilot strikes, the chances are he will be flying a private plane. In 1968, there were 38 midair collisions, all involving at least one private plane. In another 1128 reported near-misses the overwhelming preponderance of these brushes with death involved private planes. And aviation officials are afraid to guess how many more close calls were never reported. Over the nation's six busiest airports, private aircraft were present in four out of every five near-misses.

Yet the Federal Aviation Administration—the traffic police of the skies—still allows small private planes to cut into the commercial flight patterns and to use the facilities of our great jetports. This is akin to permitting cyclists to use the busy freeways with full rights to take over the traffic lanes.

Today, with airline loads at an all-time peak and private aviation mushrooming, pilots live in constant fear of the airborne fender scrapings that can take a hundred lives in a flash. As airplanes continue to supplant other carriers as the key means of intercity transportation, the dangers multiply. Spokesmen for both the airlines and private aviation say there are solutions to the crisis. But they insist the FAA lacks the courage to order them.

The most timid moves by the FAA to limit the use of major airports has brought storms of protest from the Aircraft Owners and Pilots Association, an effective, heavily financed lobby of private fliers. Whenever they believe their freedom of the skies is in jeopardy, they don't hesitate to use their money and muscle, through AOPA, to bring pressure upon the FAA.

AOPA headquarters has invested heavily in modern equipment, including new-generation computers, to maintain its membership lists and to handle its mails. Yet many private planes, whose owners help pay for AOPA's fancy clerical equipment, aren't equipped to meet the dangers in the skies. It is also beyond contention that many private pilots lack the skill and training to navigate safely in the traffic jams around the big airports. Yet they cut in and out of the traffic patterns, and their presence creates a constant peril.

Meanwhile, more and more private citizens are obtaining pilots' licenses. There are already more than 125,000 private planes in the U.S., and experts expect the number to double in the next decade. Some are used for sport, others for commerce.

While commercial pilots constantly work to keep and improve their skills—they would lose their jobs if they didn't—many weekend fliers are unaware of new regulations and procedures. "It is one thing to be able to learn to fly," said one aviation official, "but that isn't enough. In today's air environment, you must also know the ever-changing rules for flying in terminal airspace."

Many of the FAA rules smack of the days of open cockpits and dashing men in leather helmets and flowing scarves. Air routes are marked by navigation aids or visual checkpoints. If two small planes should be headed for the same destination, each would be expected to fly over the same checkpoints. It is much like sailing a boat from one buoy to another. Should a number of planes con-

verge on the checkpoint at the same time, at roughly the same altitude, danger is inescapable.

Few private planes are equipped with radar, to act as extra eyes for the pilot. And few private planes carry transponders, which return a strong, clear signal to air controllers on the ground. Many private pilots are so unskilled or careless in the use of their radios that they fail to keep the controllers informed of their positions in the air.

Probably the greatest threat to air safety is the private pilot who decides to go on a lark in the skies after drinking. Commercial pilots aren't allowed to drink before flying. But autopsies performed on pilots from 692 fatal private plane crashes in 1968 indicate that as many as 200 had been drinking. Of these accidents, officials said that alcohol was the cause of 45 "beyond a shadow of a doubt." No alcohol was found in the blood of commercial pilots killed in crashes.

The FAA statistics take into account only those private pilots whose blood-alcohol level was .05 percent or higher. Because the effects of alcohol are multiplied at high altitudes, one drink—which would not bring the alcohol level to .05 percent—is often enough to slow a pilot's reflexes.

Airline travelers have frequently been annoyed when their takeoff was held up while a small, private ship taxied up to the runway. But private planes contribute much more distress to the airlines than just delays. FAA files reveal that many crashes and near-crashes are caused by pilots who are preoccupied with training lessons. Strangely enough, FAA rules allow students to practice in the most heavily traveled airlanes. It was a student, with only 38 hours in the air, who rammed into an airliner in September over the Indianapolis airport while making a practice pass at the runway. The student and 82 persons aboard the airliner were killed.

IT MUST STOP

Commercial pilots are acutely aware of the dangers surrounding them. "The mix of large and small planes cannot continue," said Robert Rockwell, a Northwest-Orient captain who also flies his own small plane. " A lot of these little planes are flown by people with little experience, and they are plenty busy just keeping their plane at the right speed and in the right place at the right time. The air is full of smoke and industrial haze, and it's not always easy to spot another plane, especially a small one. Say I want to fly my light plane from Minneapolis to Chicago. It may cost me a little time, but I'll stay away from O'Hare (one of the world's most congested airports) and fly around to an outlying field. I have every right to land at O'Hare, but I don't want to get in the way. It isn't prudent."

As always, the AOPA is vocal in its defense of its members. "For some reason, whenever there's a midair collision between a large commercial liner and a small private plane, it's always the small plane that crashes into the big one, never the other way around, at least according to the press and politicians," Charles Spence, an AOPA official, charged. "In fact, the collision is often the fault of the commercial airliner, as recent reports of the National Transportation Safety Board investigations show. Unfortunately, it takes from a year to a year and a half from the time of a collision until the NTSB's investigation is completed; by then the crash is no longer news and nobody cares."

Spence cited two crashes—one in Urbana, Ohio, in 1967 involving a commercial jet and a small plane; another in Milwaukee, Wis., in 1968 between a commercial prop plane and a private craft. Both were eventually blamed on the commercial pilots.

The overwhelming majority of collisions, however, are traced to errors by private pilots. Indeed, most take place between two private planes. And conditions at many airports, which handle only private craft, are little short of chaotic. Pilots land their planes at whim, often cutting each other off in a race for the runway.

The FAA proposed last year that only planes actually landing or taking off be allowed in the airspace around the nation's 33 busiest airports. The suggestion brought immediate growls of displeasure from the AOPA. The FAA promptly caved in, putting the ban on only five airports. That ban expires in December.

FAA BLAMED

One of the people ouraged by FAA's lack of action is Erny Tannen, president of a broadcasting chain. Following the Indianapolis collision, he wrote FAA Administrator Jack Shaffer: "The FAA is clearly responsible for this and other crashes because of its refusal to take action on recommendations which had been made to the FAA months ago. Some of these recommendations do not require money—just the guts to require small planes to fly in patterns that will keep them completely away from the approaches of the large commercial airplanes." Mr. Tannen's interest is understandable. His son, Richard, was a passenger on the downed Indianapolis airliner.

[Recently, under mounting pressure, the FAA moved to cut midair crashes by proposing restricted zones around the nation's 22 busiest airports in which only electronically equipped aircraft would be permitted to fly under strict air traffic control.]

Meanwhile, every air traveler in the nation moves through the clouds in constant danger of meeting that sinister unseen pilot in a private plane.

[From the Wichita (Kans.) Eagle, Oct. 26, 1969]

IS PRIVATE PLANE VILLIAN OF SKY, OR VICTIM OF OUTDATED SYSTEM?

(By Arnold Lewis)

The private plane—menace or whipping boy?

Despite continuing progress toward developing and updating an antiquated national airport-airways system, the name-calling goes on.

Latest in the periodic verbal bursts of flak at so-called general aviation appears in the Parade Magazine Sunday supplement of The Wichita Eagle and The Beacon.

Authored by Drew Pearson's protege, Jack Anderson, "The Growing Menace of the Private Plane" labels general aviation as primary villain in the turmoil created by overtaxed airports and navigational airways.

"His name is instant death," the article said of the private pilot hovering "unseen . . . in the crowded skies.

Anderson maintains private pilots are involved in four out of five near-misses over the nation's six busiest airports and says they heavily finance a Washington lobby to preserve freedom of the skies.

Apparently unknown to Anderson is exactly what general aviation is and the progress being made through cooperative efforts of the entire aviation community and federal government toward a modern and workable national airport-airways system.

In 1968 there were more than 124,000 "private" planes in the U.S. civil fleet, ranging from small, two-place Cessna 150s in the $10,000 price range, on up to the $4 million to $5 million Boeing 737 business jet.

Serving some 10,000 U.S. airports, private planes annually carry as many or more people than all domestic commercial airlines using approximately 650 airports.

At the upper end of the general aviation fleet, the sophisticated business jet serves as just that, a business tool for corporations large and small, its value often being compared with that of a computer.

At the lower end, two-place trainers turn out an ever-increasing number of pilots, many going on to serve as pilots for the nation's airlines.

In between, uses to which general aviation aircraft are put are as wide and varied as the imagination of their owners.

They patrol petroleum pipelines, provide quick transportation for the sick and injured, haul freight, double the effectiveness and mobility of the businessmen, serve as aerial taxicabs and provide recreation.

The crux of the problem facing aviation today, however, is capacity. Airport and airway navigational and control facilities have just not kept pace with increased aircraft fleets and increased utilization.

Contacted by The Wichita Eagle for their reaction to the Parade article were Frank S. Hedrick, president of Beech Aircraft Corp.; Dwane L. Wallace, chairman and chief executive of Cessna Aircraft Co., and Malcolm Harned, executive vice president and general manager of Lear Jet Industries Inc.

All agreed that use of the nation's airspace was a partnership proposition and noted that considerable rapport had developed this year between general aviation and the public air carriers.

Industrial and government officials are clearly aware of the solution: more concrete for existing airports, new satellite airports for general aviation, additional air traffic controllers, more modern radar and tracking equipment on the ground and in the air, improved navigation systems to provide better separation between aircraft and specific approach and departure corridors at major airports (to segregate aircraft according to class and performance.)

The question being pursued by all parties involved is how to accomplish these goals and to decide who is going to pay the bill—a ticklish and lengthy process when dealing with powerful and varied interest groups.

All sides in the issue understand, however, they will have to "give" a little, both in terms of dollars and in terms of some of the "freedoms" they now enjoy in operation of their aircraft.

Over the long range, the Nixon administration's airport-airways bill, currently before Congress, would go far to relieve the congestion problem.

Based on user charges to finance a major portion of the program, the bill would assess general aviation nine cents per gallon on all aviation fuel (currently two cents nonrefundable), including jet fuel, which is not now taxed federally. It would impose an 8 per cent tax on all airline tickets (currently 5 per cent) and a 5 per cent tax on all air freight way bills.

One alternate proposal has been made by the House Ways and Means Committee, which would include an annual registration fee to all aircraft according to weight, in addition to a seven-cents per gallon fuel tax for general aviation.

It appears, now, that the Nixon bill, in one form or other, will make it through Congress, possibly this year.

In the more immediate future, the Federal Aviation Administration (FAA) is attempting to formulate regulations which would segregate different classes of aircraft in high density hub airport areas to reduce the possibility of in-flight collisions.

Included is a proposal that would require all aircraft be equipped with transponders—an electronic device which returns a positive signal from the aircraft to interrogating ground radar, thus facilitating positive air traffic control identification.

In-flight collisions, such as that of Sept. 9 between an Allegany Airlines DC-9 and a Piper Cherokee which claimed 83 lives, add new fuel to the airport-airways issue.

And, when a small general aviation aircraft is involved, the finger invariably is pointed toward the "little" plane by initial press reports.

Reaction holds the light aircraft had no right to be there, regardless who was at fault.

The Parade article declared: "It was a student with only 38 hours in the air who

rammed into an airliner in September over the Indianapolis airport while making a practice pass at the runway."

Actually the accident occurred some 20 miles southeast of the airport. Subsequent findings suggest it was the airliner that struck the light plane.

In an analysis of the 38 in-flight collisions occurring in the United States during 1968, the National Transportation Safety Board (NTSB), which investigates all fatal air accidents, found FAA's air traffic control system was involved in at least seven.

And in all seven, traffic congestion, control tower visibility and human performance limitations, plus inadequacy of VFR (aircraft operating under "see and be seen" visual flight rules) traffic flow procedures were found contributory to the chain of events leading up to collision.

"In-flight collisions are very rare at airports where traffic flow is directed in a positive and orderly manner," the NTSB declared.

In the analysis, NTSB said six of the 38 collisions occurred on or above an airport, 12 within the airport traffic pattern, five within two miles of the airport and 10 accidents more than five miles from the airport.

The collisions involved 76 individual aircraft and 71 fatalities, although passengers and crew members totaled 246.

Of the aircraft, three were commercial airliners, one a military fighter and two were gliders—the remainder being powered general aviation aircraft. One collision, incidentally, involved two planes being used to herd horses in Wyoming.

Twenty-one aircraft were described as being on pleasure flights, while 20 were engaged in some form of flight instruction.

The NTSB concluded:

"While there was no evidence of adverse weather having been a significant factor in any of the 38 in-flight collision accidents, haze and-or smoke were likely to have been in the area in six instances; precipitation, showery in nature, was probably in the general area in 11 cases.

"All 38 collisions, however, occurred during daylight hours under VFR conditions (ceiling above 1,000 feet and visibility more than three miles).

"It was noted most collisions occurred in areas and periods of greatest general aviation activity and the most likely time and place for collisions to occur would be on bright clear Sunday afternoons in August at uncontrolled airports," NTSB said.

A common misconception among laymen, including the Parade writer, is that radar equipment on aircraft is used for spotting other aircraft.

Stated Parade: "Few private planes are equipped with radar, to act as extra eyes for the pilot."

Nor do any commercial airliners have these extra "eyes." Aircraft radar is for weather avoidance and does not detect other aircraft.

Parade also pointed out that the "private pilot who decides to go on a lark in the skies after drinking . . . is . . . probably the greatest threat to air safety."

It added that autopsies performed on pilots from the 692 fatal general aviation accidents during 1968 "indicate that as many as 200 had been drinking. Of these accidents, officials said that alcohol was the cause of 45 'beyond a shadow of a doubt.' "

As recently as September, however, Bernard Boyle, NTSB chief of the Safety Analysis Division, said he believed only a small percentage of private pilots fly after drinking.

In each of the past three years, he said alcohol has been attributed to 6½ to 7 per cent of fatal private plane crashes.

By way of comparison, the National Safety Council states that alcohol probably is a factor in at least half of all fatal motor vehicle accidents.

Actually, the accident rate of general aviation aircraft is decreasing—5,069, or 1.36 accidents per every one million airplane miles flown in 1968, compared with 6,115, or 1.78 accidents per million miles flown in 1967.

The number of fatal accidents, however, increased from 603, or .18 per million miles flown, in 1967, to 692, or .19 per million miles flown in 1968.

At the same time there was a 9 per cent increase in the general aviation fleet—from 114,186 in 1967, to 124,237 in 1968—and a corresponding 9 per cent increase in the miles flown by general aviation aircraft, according to Aviation Data Service (ADS), Wichita.

Again for comparison, some 26 million (25.5 per cent) of the nation's 102.1 million motor vehicles in 1968 were involved in accidents accounting for 55,200 motor vehicle deaths, according to National Safety Council figures.

There were 14.5 accidents per one million miles driven by motor vehicles and .04 fatalities per million miles driven.

The FAA categorizes all nonairline and nonmilitary aircraft in the United States as general aviation, or "private" aircraft. Its own fleet numbers more than 100.

Of the 24 million general aviation hours flown in 1968, as a point in fact, 69 per cent were for business purposes and 31 per cent could be labeled "personal use of aircraft," according to ADS.

The picture appearing at the top of the Parade article apparently was intended to depict the "private" plane menace.

A check of records maintained on each aircraft flown in the civil system revealed that all aircraft pictured have transponders, radar, distance measuring equipment, autopilots, redundant communications and navigation systems and, in essence, were equipped comparably or better than the two commercial jetliners shown in the background.

The five "private" aircraft in the picture represent a transportation investment by "private" businesses of $7.2 million, of which nearly $1 million is represented by the cost of electronic communication and navigation equipment alone.

Indeed, these private planes are waiting for the navigation, air traffic control and federal communications system to catch up so equipment they have installed can be used on any airport in the U.S.

Most businesses and corporations utilizing their own private aircraft today also are heavy users of the commercial airlines.

Whether public or private, air safety is a vital concern to all.

[From the Washington (D.C.) Post, Nov. 2, 1969]

PRIVATE PLANES AND THEIR SAFETY RECORD

Your edition of Oct. 26 carried the Parade Magazine which published "The Growing Menace of the Private Plane," by Jack Anderson.

Actually, the greatest menace to aviation safety is this kind of inaccurate and sensational writing. It will be a service to the public and to aviation if you will publish the following attempt to undo the damage done by Mr. Anderson and Parade. Here are just five errors of fact:

1. The private airplane and airliner did not collide over the Indianapolis airport, but some 20 miles away from the airport.

2. The private airplane's pilot was not "making a practice pass at the runway." He was making a cross-country flight on a flight plan. So far as has been determined, he was just where he was supposed to be.

3. Airborne radar in civil aircraft does not act as "extra eyes for the pilot." It does not picture other aircraft. Its purpose is to pick out areas of heaviest precipitation in thunderstorms.

4. The FAA "ban" at five airports does not reserve the surrounding airspace only for planes landing or taking off. The "ban" is actually a rule which limits the number of landings and takeoffs each hour under instrument flight rules. FAA instituted the rule to minimize delays (which it has not done), rather than for safety.

5. Present rules do not allow "small private planes to cut into the commercial flight patterns." Federal Air Regulations specifically prohibit any aircraft's "cutting into" the path of any other. Incidentally, there are no "commercial flight patterns."

Both Parade and Mr. Anderson have prejudged the findings of the National Transportation Safety Board, which is trying to establish specifically what did happen in that tragic collision.

This kind of sensationalism threatens aviation safety because it leads to unthinking demands that something—*anything!*—be done, and to hasty steps on the part of FAA in response to public pressure. FAA is rushing ahead right now with its proposed high density "terminal control area" rule, the application of which could actually increase hazards near some airports if not done carefully and deliberately. The "terminal control area" rule will put a greatly expanded umbrella of controlled airspace around certain major hub airports. But aircraft bound for other airports under these control umbrellas may have the airspace they use severely curtailed, in which case the danger of collisions at those airports will increase.

"Private planes" run the gamut from Piper Cubs to intercontinental business jets.

"Private planes" includes the 2,500 aircraft used by members of the National Business Aircraft Association. These aircraft are flown by professional pilots with a minimum of a commercial license and instrument rating. Most of these aircraft have electronic equipment equal to that of the airliners. Many have equipment superior to airliners', and more of it.

Recently, 141 corporate members of NBAA received Flying Safety Awards recognizing the accumulation of more than 552-million accident-free flying miles. More than 530 individual pilots of member companies have flown more than 1 million safe miles, and their cumulative total tops 890 million safe miles.

Mr. Anderson's article is a libel upon such professional pilots of private planes. May we hope for an end to sensationalism about aviation safety and, instead, see some thoroughly researched, well thought out articles to help us reach our major goal of fair, efficient, and safe use of airspace and airports?

FLETCHER COX, Jr.,
Assistant Director, Publications and Promotions, National Business Aircraft Association.
WASHINGTON.

THE PHILADELPHIA PLAN

Mr. ERVIN. Mr. President, on Monday and Tuesday the Subcommittee on Separation of Powers held hearings on the Department of Labor's Philadelphia plan, a controversial effort to increase the percentage of minority group employees in six Philadelphia area construction trades.

Almost 3 months ago, the Honorable Elmer B. Staats, Comptroller General of the United States, declared this plan illegal because it conflicts with title VII of the 1964 Civil Rights Act.

Mr. Staats decided, and I wholeheartedly agree, that the Philadelphia plan constitutes an illegal racial quota system. My distinguished colleague, Senator McCLELLAN, also adopted this posi-

tion during the hearings and championed it with great skill.

Mr. President, I find it serious indeed that the Department of Labor has chosen to ignore the Comptroller General's decision and to institute the Philadelphia plan in nine other American cities. I find it deplorable that the Department has approved further contracts in Philadelphia under the plan. It is no justification that the Department of Justice supports the Labor Department in these actions.

Under the Budget and Accounting Act of 1921, the decisions of the Comptroller General are to be regarded as "final and conclusive" upon the executive branch of Government. Further, the Comptroller General is directed under that act to make certain that the executive expenditures are consistent with any and all laws.

Nowhere in the act is the executive branch empowered to disregard the decisions of the Comptroller General. Nowhere does that act say that if the Department of Labor disagrees with the Comptroller General's legal reasoning, it can ignore his directives.

Mr. President, I would remind the Senate that the Comptroller General is an arm of the Congress. An affront to him is an affront to us all.

I ask unanimous consent that the Comptroller General's excellent statement before the Subcommittee on Separation of Powers, together with the statement I made at the opening of the hearing, be printed at this point in the RECORD.

The PRESIDING OFFICER. (Mr. ALLEN in the chair) without objection it is so ordered.

STATEMENT OF ELMER B. STAATS, COMPTROLLER GENERAL OF THE UNITED STATES

Mr. Chairman and Members of the Subcommittee: We appreciate this opportunity to appear before your Subcommittee to discuss our position with respect to the revised "Philadelphia Plan." We are concerned about both the legality of the Plan and the situations which appear to have arisen as a result of our endeavors to discharge our statutory duties and responsibilities in connection with the Plan.

I believe the members of the Subcommittee are by now aware of the basic facts, which are (1) that the Department of Labor has issued an order requiring that major construction contracts in the Philadelphia area, which are entered into or financed by the United States, must include commitments by the contractors to goals of employment of minority workers in specified skilled trades; (2) that by a decision dated August 5, 1969, we advised the Secretary of Labor that we considered the Plan to be in contravention of the Civil Rights Act of 1964 and would be required to so hold in passing upon the legality of expenditures of appropriated funds under contract made subject to the Plan; and (3) that the Attorney General on September 22, 1969, issued an opinion to the Secretary of Labor advising him of his conclusion that the Plan is not in conflict with any provision of the Civil Rights Act; that it is authorized by Executive Order No. 11246; and that it may be enforced in awarding Government contracts.

We would like to offer for the record copies of our decision and of the Attorney General's opinion.

The revised Philadelphia Plan was issued on June 27, 1969, with the announcement that it was designed to meet GAO's objections to a lack of specificity in a prior plan. The new plan is frank and direct in stating its purpose. It gives a rundown of the history of alleged discriminatory practices by the Philadelphia construction unions in admitting members; it states that the percentage of minority group membership in the unions and the construction trades is far below the ratio of minority group population to the total Philadelphia population, and it advises that the purpose of the Plan is to achieve greater participation of minority group members in the construction trades.

The Plan states that there shall be included in invitations for bids (IFBS) on both Federal and federally assisted construction contracts in the Philadelphia area, specific ranges of minority group employees in each of six skilled construction trades; that each bidder must designate in his bid the specific number of minority group employees, within such ranges, that he will employ on the job; and that failure of the contractor to "make every good faith effort" to attain the minority group employment "goals" he has established in his bid may result in the imposition of sanctions, which might include termination of his contract.

The primary question considered in our decision of August 5 was whether the revised Plan violated the equal employment opportunity provisions of the Civil Rights Act of 1964.

In the formulation of that decision, we regarded the Civil Rights Act of 1964 as being the law governing nondiscrimination in employment and equal employment opportunity obligations of employers. Therefore we considered the 1964 Act as overriding any administrative rules, regulations, and orders which conflicted with the provisions of that Act or went beyond such law and purported to establish, in effect, additional unlawful employment practices for employers who engaged in Federal or federally assisted construction.

We think the basic policy of the equal employment opportunity part of the Act is set out in pertinent part in section 703(a) as follows:

"It shall be an unlawful employment practice for any employer—

"(1) to fail or refuse to hire * * * any individual * * * because of such individual's race, color, religion, sex, or national origin."

The basic policy of the Act as it relates to federally assisted contracts, is stated in pertinent part in section 601, as follows:

"No person * * * shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Another pertinent provision of the Act is set out in section 703(j), which provides in part as follows:

"Nothing contained in this title shall be interpreted to require any employer * * * to grant preferential treatment to any individual or to any group because * * * of an imbalance which may exist with respect to the total number or percentage of persons of any race * * * or national origin employed by any employer [or] referred * * * for employment by any * * * labor organization * * * in comparison with the total number or percentage of persons of such race * * * or national origin in any community * * * or in the available work force in any community * * *."

This part of the law is known as the prohibition against "quotas"; that is, the prohibition against requiring an employer to hire a specified proportion or percentage of his employees from certain racial or national origin groups.

It seems to have been generally accepted by Labor, Justice and minority group spokesmen that "quotas" are illegal. But in defense of the Philadelphia Plan the Department of Labor argued that the "goals" for minority group employees which would be included in IFBs and in contracts under the Plan could not violate the Civil Rights Act of 1964 because—

1. A quota is a *fixed* number or percentage of minority group members, whereas *ranges* to be established under the Plan are flexible in that the bidder may choose as his goal any number or percentage within the ranges set out in the IFB.

2. Failure to attain the "goals" does not constitute noncompliance, since such failure can be waived if the contractor can show that he made "every good faith effort" to attain the goals.

3. The Philadelphia Plan was promulgated under Executive Order 11246, not under the Civil Rights Act of 1964, and affirmative action programs under the Executive Order may properly require consideration of race or national origin if such consideration is necessary to correct the present results of past discrimination.

4. The Plan provides that the contractor's commitment to specified goals of minority group employment shall not be used to discriminate against any qualified applicant or employee.

In considering these arguments in our decision of August 5 we said that in our opinion the distinction between quotas and goals was largely a matter of semantics. The plain facts are, however, that the Plan sets a definite minimum percentage requirement for employment of minority workers; requires an employer to commit himself to employ at least a corresponding minimum number of minority workers; and provides for sanctions for a failure to employ that number (unless the contractor can satisfy the agency personnel concerned that he has made every good faith effort to attain such number). It follows therefore, that when such sanctions are applied they will be a direct result of the contractor's failure to meet his specified number of minority employees.

In our decision of August 5 we also said that the basic philosophy of the equal employment opportunities portion of the Civil Rights Act is that it shall be an unlawful employment practice to use race or national origin as a basis for hiring, or refusing to hire, a qualified applicant. And we said the Plan would necessarily require contractors to consider race and national origin in hiring.

In reply to the Department's contention that the Plan itself says a contractor's goals shall not be used to discriminate against any qualified applicant or employee, we expressed the opinion that the obligation to make every good faith effort to attain his goals under the Plan will place contractors in situations where they will undoubtedly grant preferential treatment to minority group employees. Later, I will address this point again.

It is our opinion that the legislative history of the Civil Rights Act shows beyond question that Congress in legislating against discrimination in employment recognized the discrimination that is inherent in a quota system, and regarded the term "discrimination" as including the use of race or national origin as a basis for hiring; the assignment of numerical ratios based on race or national origin; and the maintaining of any racial balance in employees.

In considering Labor's contention that it could properly consider race or national origin under affirmative action programs established under Executive Orders, we pointed out that while the term "affirmative action" was included in Executive Order 10925, which was in effect at the time Congress was debating the bill which was subsequently enacted as the Civil Rights Act of 1964, no specific affirmative action requirements of the kind here involved had been imposed upon contractors under authority of that Executive Order at that time. We therefore did not think it could be successfully con-

tended that Congress, in recognizing the existence of the Executive Order and in failing to specifically legislate against it, was approving or ratifying the type or methods of affirmative action which the present Plan imposes upon contractors.

While the Labor Department cited various court cases in support of its position that reverse discrimination may properly be used to correct the present results of past discrimination, our examination of those cases showed that the majority involved questions of education, housing, and voting. We said we could see a *material* difference between the circumstances in those cases and the circumstances which gave rise to the Philadelphia Plan, since in those cases enforcement of the rights of the minority to vote, or to have unsegregated housing, or unsegregated school facilities, did *not* deprive members of the majority group of similar rights, whereas in the employment field, each mandatory and discriminatory hiring of a minority group worker would preclude the employment of a member of the majority group. In those cases which did involve Title VII of the Civil Rights Act of 1964, we found them to be concerned with practices of labor unions or with treatment by employers of their employees in matters of seniority and promotion, and even in such circumstances, we found the courts to be divided between condoning and condeming the practice.

Our decision also pointed out that the effect of the Plan was to require an employer to abandon his customary practice of hiring through a local union if there is a racial or national origin imbalance in the membership of such union, and we concluded that such a requirement would be in violation of section 703(j) of the Act. We cited numerous portions of the legislative history of the Act which supports, we think, the view that Congress intended to prohibit and preclude the sort of program and procedures which are now included in the Philadelphia Plan when it drafted section 703(j).

In this connection we expressed the opinion that it would be improper to impose requirements on contractors to incur additional expenses in affirmative action programs which are designed to correct the discriminatory practices of unions, since such requirements would result in the expenditure of appropriated funds in a manner not contemplated by Congress. And we pointed out that if unions were, in fact, discriminating, they could be required to correct their discriminatory practices under provisions of the National Labor Relations Act, under Title VII of the Civil Rights Act, and under section 207 of Executive Order 11246. We suggested use of one of these remedies.

Finally, we concluded that until the authority for any agency to impose or require conditions in invitations for bids which obligate bidders, contractors, or subcontractors, to consider the race or national origin of their employees or prospective employees, is clearly and firmly established by the weight of judicial precedent, or by additional statutes, we must consider conditions of the type proposed by the revised Philadelphia Plan to be in conflict with the Civil Rights Act of 1964, and we will necessarily have to so construe and apply the act in passing upon the legality of matters involving expenditure of appropriated funds for Federal or federally assisted construction projects.

On August 6, the day after our decision of August 5, the Secretary of Labor held a press conference at which he expressed the opinion that "interpretation of the Civil Rights Act has been vested by Congress in the Department of Justice"; that Justice had already decided that the Philadelphia Plan was not in conflict with the Act; that GAO properly could pass upon whether the Philadelphia Plan violated *procurement* law; and that Labor therefore had no choice but to follow the opinion of Justice and proceed to implement the Plan. For the record, it should be noted that the only Department of Justice opinion Labor had, at the time it issued the revised Plan and at the time the Secretary held his press conference, was one rendered in two short paragraphs by the Assistant Attorney General for the Civil Rights Division. On September 22, 1969, the Attorney General did, however, issue a formal opinion, which was essentially in the form of a critique of our August 5 decision.

The fundamental bases of the Attorney General's opinion are his contentions that the Executive has authority to include in contracts made by the United States or financed with Government assistance any terms and conditions which are not contrary to a statutory prohibition or limitation on contractual authority; that the requirements imposed upon contractors by the Philadelphia Plan are not prohibited by the Civil Rights Act; and that the fact that the Act does not affirmatively require or authorize the imposition of such requirements upon all employers does not preclude their imposition by the Executive upon employers who enter into contracts with the Government or which are financed through Government assistance.

We believe that the argument with respect to the authority of the Executive to include terms and conditions in contracts fails to take into consideration two material factors: first, with respect to contracts executed by the Government, Congress has imposed a number of specific requirements and limitations, both procedural and substantive, entirely independent of and unrelated to the provisions of the Civil Rights Act, but which we believe to be material to the determination of the validity of the Plan; and second, with respect to contracts financed by Federal assistance, Congress has in the several acts authorizing such assistance prescribed the terms and conditions upon which it is to be furnished. With respect to the latter area, we do not believe it could be argued that the Executive has any authority from the Constitution or from any source other than those Congressional acts, and the Attorney General's argument is to that extent inapplicable to federally aided contracts or programs.

Considering the contractual authority of the Federal Government, it is recognized that the Executive agencies may, in the absence of contrary legislative provisions, perform their authorized functions and programs by any appropriate means, including the use of contracts. In doing so, they are bound to observe all statutory provisions applicable to the making of public contracts. The Attorney General's opinion states that the power of the Government to determine the terms which shall be included in its contracts is subject to limitations imposed by the Constitution or by acts of Congress, but that existence of the power does depend upon an affirmative legislative enactment.

Second to the statutory limitation that no contract shall be made unless it is authorized by law or is under an appropriation adequate to its fulfillment (41 U.S.C. 11) the most important congressional limitation on contracting is the requirement that Government contracts shall be made or entered into only after public advertising and competitive bidding, on such terms as will permit full and free competition. The purpose of the advertising statutes is not only to prevent frauds or favoritism in the award of public contracts, but also to secure for the Government the benefits of full and free competition.

The Supreme Court of the United States has adopted the policy, as set out in the procurement laws and regulations issued pursuant thereto, that competitive bidding should obtain the needs of the Government at prices calculated to result in the lowest ultimate cost to the Government. (*Paul* v. *United States*, 371 U.S. 245, 252 (1968).) Even before the decision by the Supreme Court the rule generally applied by my predecessors and at least one of the Attorney General's predecessors, and, so far as I know, never contested by any prior Attorney General, is that the inclusion in any contract of terms or conditions, not specifically authorized by law, which tend to lessen competition or increase the probable cost to the Government, are unauthorized and illegal. The situation in which this rule has been applied have most frequently involved proposals to impose stipulations concerning employment conditions or practices.

In 1890 the Attorney General advised the President as follows, with respect to a request of a labor organization for implementation of the act of June 25, 1868, which provided that eight hours shall constitute a day's work:

"Again sections 3709, etc., require contracts for supplies or services on behalf of the Government, except for prisoners' services, to be made with the lowest responsible bidder, after due advertisement. These statutes make no provision for the length of the day's work by the employees of such contractors, and a public officer who should let a contract for a larger sum than would be otherwise necessary by reason of a condition that a contractor's employees should only work eight hours a day would directly violate the law.

"In short, the statutes do not contain any such provision as would authorize or justify the President in making such an order as is asked. Nor does any such authority inhere in the Executive office. The President has, under the Constitution and laws, certain duties to perform, among these being to take care that the laws be faithfully executed; that is, that the other executive and administrative officers of the Government faithfully perform their duties; but the statutes regulate and prescribe these duties, and he has no more power to add to, or subtract from, the duties imposed upon subordinate executive and administrative officers by the law, than those officers have to add or subtract from his duties.

"The relief asked in this matter can, in my judgment, come only through additional legislation."

On the same principle our Office has held that a contract could not prescribe minimum wages in the absence of specific statutory authority (10 Comp. Gen. 294 (1931)); compliance with the National Labor Relations Act of 1935 could not be required by contract, nor noncompliance therewith be made ground for rejection of a bid (17 Comp. Gen. 37 (1937)); periodic adjustment of minimum wages incorporated in a contract pursuant to the Davis-Bacon Act could not be stipulated in the contract (17 Comp. Gen. 471 (1937)); provisions of a Procurement Division Circular Letter purporting to require contractors to report payroll statistics could not be incorporated in Government contracts (17 Comp. Gen. 585 (1938)); construction contracts could not contain provisions concerning collective bargaining (18 Comp. Gen. 285 (1938)); a requirement for compliance with the Fair Labor Standards Act could not be included in Government contracts (20 Comp. Gen. 24 (1940)); a low bid on a Government contract could not be rejected because the bidder did not employ union labor (31 Comp. Gen. 561 (1952)); construction contracts could not include provisions for a 40-hour workweek and overtime compensation for excess time, when the only pertinent statute merely required overtime compensation for work in excess of eight hours per day (33 Comp. Gen. 477 (1954)); and a clause requiring contractors to comply with wage, hour and fringe benefit provisions re-

sulting from a labor-management agreement could not be included in construction contracts in the absence of statutory authorization (42 Comp. Gen. 1 (1962)).

Of course, many of those proposed requirements were subsequently authorized by Congressional enactment and, together with other similar requirements, are today accepted features of Government contracting in the social-economic area. The point is, that they were not permitted until the Congress, rather than the Executive, had determined that they should be. So far as I know there was no attempt in any of those instances by the Executive branch to disregard the decisions of the Comptroller General.

In the face of this history, we cannot agree that the Attorney General's position that the Executive may impose upon contractors any conditions which have not been specifically prohibited, is correct.

In contending that the Plan is not in conflict with any provision of the Civil Rights Act, the Attorney General attempts to reconcile provisions of the Plan which we feel are irreconcilable. As summarized by the Attorney General, the Plan requires the contractor to set specific goals for minority group hiring, and to make "every good faith effort" to meet these goals. This, however, he says does not require the contractor to discriminate, because the Plan includes the express statement that he may not in attempting to meet his goals discriminate against any qualified employee on grounds of race, color, religion, sex, or national origin. As we stated in our decision of August 5 this is a statement of a practical impossibility. The provision is, in effect, no more than a statement of the provisions of the Civil Rights Act, and it is difficult to avoid the conclusion that the Attorney General is saying that no requirement, obligation or duty can be considered contrary to law if it is accompanied by a statement that in meeting it the law will not be violated.

It should also be noted that the Attorney General confines his argument to consideration of the provisions of Section 703(a) of the act, and ignores section 703(j), which in our view is an express prohibition against imposition of a program such as is included in the Plan.

Finally the Attorney General falls back on the plea that, while the Plan might be clearer if it stated what "good faith efforts" are expected, it must be assumed that the Plan will be so fairly administered that no contractor will be forced to choose between noncompliance with his obligation to achieve his goal and violation of the act. Therefore, he says, it is premature to assert the invalidity of the Plan because of what may occur in its enforcement; any unfairness in administration should be left for judicial remedy.

The foregoing would indicate that the Attorney General does not fully recognize the pressure which the Plan will impose upon contractors to attain their minority group employee goals. A failure to achieve such goals will immediately place the contractor in the role of defendant, and to avoid sanctions he must then provide complete justification for his failure. Furthermore, in the first instance at least, the question whether he made every good faith effort will be determined by the same Federal personnel who imposed the requirement. In our opinion the coercive features inherent in the Plan cannot help but result in discrimination in both recruiting and hiring by contractors subject to the Plan.

In the final sentence of his opinion the Attorney General undertook to advise that the Department of Labor "and other contracting agencies *and their accountable officers*" may rely on his opinion in their administration of Executive Order 11246. We are especially concerned by this statement. In making it the Attorney General appears to have ignored completely section 304 of the Budget and Accounting Act of 1921, 31 U.S.C. 74, which provides that "Balances certified by the General Accounting Office, upon the settlement of public accounts, shall be final and conclusive upon the Executive Branch of the Government."

In this connection, I would like to point out as emphatically as I can that I believe that one of the most serious questions for the Subcommittee's consideration is whether the Executive branch of the Government has the right to act upon its own interpretation of the laws enacted by the Congress, and to expend and obligate funds appropriated by the Congress in a manner which my Office, as the designated agent of the Congress, has found to be contrary law.

In our decision, we informed the Secretary of Labor that the General Accounting Office would regard the Plan as a violation of the Civil Rights Act in passing upon the legality of matters involving expenditures of appropritaed funds for Federal or federally assisted construction. Our jurisdiction in that respect is derived from the authority and duty to audit and settle public accounts which was vested in and imposed upon the accounting officers of the Government by the act of March 3, 1817, 3 Stat. 366, and which was transferred to the General Accounting Office by the Budget and Accounting Act, 1921, 42 Stat. 24. Under section 8 of the Dockery Act of July 31, 1894, 28 Stat. 207, as amended by section 304 of the Budget and Accounting Act (31 U.S.C. 74), disbursing officers, or the head of any Executive departments, may apply for and the Comptroller General is required to render his decision upon any question involving a payment to be made by them, or under them, which decision, when rendered, shall govern the General Accounting Office in passing upon the account containing the disbursement. A similar provision concerning certifying officers and other employees appears at 31 U.S.C. 82d, which also provides that the liability of certifying officers or employees shall be enforced in the same manner and to the same extent as now provided by law with respect to enforcement of the liability of disbursing and other accountable officers. It is within the framework of these authorities that we propose to act in the enforcement of our decision of August 5, 1969.

The Attorney General's opinion concluded with the statement that the contracting agencies and their accountable officers could rely on his opinion. Considering the fact that the sole authority claimed for the Plan ordered by the Labor Department is the Executive order of the President, it is quite clear that the Executive branch of the Government is asserting the power to use Government funds in the accomplishment of a program not authorized by Congressional enactment, upon its own determination of authority and its own interpretation of pertinent statutes, and contrary to an opinion by the Comptroller General to whom the Congress has given the authority to determine the legality of expenditures of appropriated funds, and whose actions with respect thereto were decreed by the Congress to be "final and conclusive upon the Executive Branch of the Government." We believe the actions of officials of the Executive branch in this matter, present such serious challenges to the authority vested in the General Accounting Office by the Congress as to present a substantial threat to the maintenance of effective legislative control of the expenditure of Government funds.

We believe the opinion of the Attorney General and the announced intention of the Labor Department to extend the provisions of the Plan to other major metropolitan areas can only create such widespread doubt and confusion in the construction industry and in the labor field (which may also be shared to a considerable extent by the Government's contracting and fiscal officers) as to constitute a major obstacle to the orderly prosecution of Federal and federally assisted construction. We further believe there is a definite possibility that, faced with a possibility of not being able to obtain prompt payment under contracts for such work as well as the probability of labor difficulties resulting from their efforts to comply with the Plan, many potential contractors will be reluctant to bid. Of course, if this occurs the Plan will result in restricting full and free competition as required by the procurement laws and regulations. Also, those who do bid will no doubt consider it necessary to include in their bid prices substantial contingency allowances to guard against loss.

In addition to recognizing the chaotic situation which could result from use of the Plan by the Executive agencies, I believe I would not be fulfilling my duties and responsibilities if I ignored the detrimental effect upon the competitive bidding process, and the improper use of public funds which the Plan entails.

On September 23, the day following the Attorney General's opinion, Labor issued another revised Philadelphia Plan which explains, *for the first time*, the manner in which the "ranges" of minority group employment goals have been determined, and the criteria for determining whether a contractor has made good faith efforts to attain his goals.

I stress that these matters are set out for the first time in the September revision of the Philadelphia Plan primarily because our decision of August 5 gave no consideration to the adverse effect that these factors, when established, might have upon application of the rules of competitive bidding to the overall Plan.

We fully expect to receive a bid protest in some future procurement which questions inclusion of the Philadelphia Plan in the IFB and the contract, and we realize the effect a decision sustaining such a protest could have on the construction industry, the contracting agencies and the disbursing officers. But we think the question is sufficiently important to justify and require such a decision.

Basically, it has been our position that the law is to be construed as written and enforced in accordance with the legislative intent when it was enacted. We believe this is what the law requires. Also, we are part of the Legislative branch of the Government and we think this approach is the only proper one we can take.

If, following enactment of a law, it should occur that social conditions, economic conditions, the political atmosphere, or any other circumstances should change to such an extent that different treatment should be given, that different objectives should be established, or that different results should be obtained, it has always been our position that the arguments in favor of change should be presented to the Congress—and if the Congress in its wisdom, agrees that social, economic, or political circumstances so dictate, it will enact legislation to permit or require the Executive branch to take necessary action to attain new objectives. This is the very procedure which Congress directed should be followed in this particular situation. As we pointed out in our decision of August 5, 1969, by section 705(d) of the Civil Rights Act of 1964, Congress charged the Equal Employment Opportunity Commission with the specific responsibility of making reports to the Congress and to the President on the cause of and means of eliminating discrimination, and making such *recommendations for further legislation* as may appear desirable.

We concur with the authority of the Executive branch to establish and carry out social programs or policies which are not contrary to public policy, as that policy may

be stated or necessarily implied by the Constitution, by Federal statutes or by judicial precedent. But we do *not* agree that where a statute, such as the Civil Rights Act of 1964, clearly enunciates Federal policy and the methods for enforcing such policy, the Executive may institute programs designed to achieve objectives which are beyond those contemplated by the statute by means prohibited by the statute.

We therefore hope that, as a result of these hearings, there will issue from Congress a clear and unequivocal indication of its will in this matter by which all parties concerned may be guided in their future actions.

This concludes my statement, Mr. Chairman. We will be pleased to answer any questions.

STATEMENT OF SENATOR SAM J. ERVIN, JR.

Today, the Subcommittee on Separation of Powers begins two days of hearings on the Department of Labor's revised Philadelphia Plan, a controversial effort to raise the percentage of minority group members working in six Philadelphia area construction trades.

Over the past three months, the Philadelphia Plan has become the focal point of pressures and discontent which reach far into American society. At this moment, the Labor Department and the Comptroller General of the United States are in complete disagreement about the Plan's legality. The Comptroller General, who believes the Plan conflicts with Title VII of the 1964 Civil Rights Act, has refused to allow any government funds to be spent under the Plan. The Labor Department, supported by the Attorney General, contends that the Plan is legal and intends to implement it in nine other cities, with or without the Comptroller General's approval.

During the next two days, our purpose will not be to debate the wisdom of the Philadelphia Plan, although its wisdom has been challenged in the Congress and in the streets of Chicago, Pittsburgh, and Seattle. We will not assess the social and political consequences which are inherent in any such policy. Rather, we will examine the Plan as it relates to the doctrine of separation of powers and try to determine whether the Labor Department has usurped Congressional authority and violated legislative intent.

We will ask the Labor Department to explain, in clear English, precisely what it means by "affirmative action goal" and by "specific numerical range". That task may not be easy. The Brookings Institution, in a report called *Jobs and Civil Rights*, prepared for the U.S. Commission on Civil Rights some two years ago, aptly summarized the response of Labor Department officials when asked to define such terms:

"Compliance officials", the report found, "do everything they can to avoid directly facing questions involving preferences. The usual response when confronted with this issue is to fall back on the standard semantics that compliance is not so much a matter of set requirements as it is a matter of taking affirmative actions which produce results. . . . The current approach may enable the government to go further than the Congress and public opinion would allow if its goals in this area had to be made more explicit."

Through the controversy over the Philadelphia Plan, one of the Labor Department's recurring arguments has been that the Plan has been misunderstood by its critics. If the Department is sincerely concerned about any misunderstandings, now is the time to clarify them. Now is the time for the Department to be more candid than in the past: to explain its policies in everyday English, not to cloak them in the misleading language which the Brookings report describes. For the Department to persist in using "the standard semantics" would be to leave its policies as unclear and confusing as ever.

I would like to point out that the Labor Department has been something less than cooperative in its dealings with the Subcommittee. On the several occasions in which the Subcommittee requested information from the Department, those requests were either ignored, answered incompletely, or answered after substantial delays. Ordinarily these would be small points, and I do not intend for them to become issues in these hearings. But if the Labor Department has in fact been misunderstood, perhaps this lack of cooperation is partly responsible for that situation.

We will also ask the Labor Department to make clear what is meant by the "good faith effort" which is required of contractors under the Philadelphia Plan. Nowhere in the Plan is that term defined. Does that "good faith effort" compel contractors to discriminate againts workers who are not members of any minority group, workers with seniority in their unions, workers with the immediate skills needed to complete a Federal construction project within the contract deadline? My observation is that it does, in view of the harsh pressures which the Office of Federal Contract Compliance can bring to bear on contractors subject to the Plan.

The Subcommittee wants to be shown that the Philadelphia Plan, in forcing contractors to raise the percentage of minority group employment, does not violate Title VII of the 1964 Civil Rights Act. That act certainly does not authorize any racial quota systems, by whatever names they may be called. At this point, I want to read into the record Section 703(j) of Title VII:

"(j) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area."

I will also read into the record a section of the interpretative memorandum prepared in 1964 by Senators Clark and Case, the floor managers of Title VII. In their statement, in the CONGRESSIONAL RECORD, volume 110, part 6, page 7213, they stated:

"There is no requirement in title VII that an employer maintain a racial balance in his work force. On the contrary, any deliberate attempt to maintain a racial balance, whatever such a balance may be, would involve a violation of title VII because maintaining such a balance would require an employer to hire or to refuse to hire on the basis of race."

To me, the texts of Title VII and the interpretative memorandum constitute clear evidence that the Philadelphia Plan contravenes the intent of the most avid proponents of the 1964 Civil Rights Act. They show that Executive Order 11246, which was designed merely to guarantee equal employment opportunity regardless of race, has been stretched beyond the limits of reason to lend legal justification to the Philadelphia Plan.

I ask the Labor Department to explain why the Philadelphia Plan does not compel contractors to hire on the basis of race. I ask the Department to show that the Plan does not ignore the intent expressed in the Clark-Case memorandum.

The Philadelphia Plan, according to the Labor Department itself, requires minority group employment of 22 to 26 percent among ironworkers by 1973. It requires 20 to 24 per cent among plumbers, and among pipefitters, and among steamfitters. It requires 19 to 23 per cent among sheetmetal, electrical, and elevator construction workers. These percentages rise every year. It would be a travesty for the Department to claim that they are not based on race.

We want the Labor Department to explain, without resorting to semantic devices, why the Philadephia Plan disregards the intent of Congress that Title VII should not hold contractors responsible for the membership practices of labor unions, practices over which the contractors can exercise absolutely no control.

I want to read another section of the Clark-Case memorandum into the record at this point:

"Question: If an employer obtains his employees from a union hiring hall through operation of his labor contract is he in fact the true employer from the standpoint of discrimination because of race, color, religion, or national origin when he exercises no choice in their selection? If the hiring hall sends only white males is the employer guilty of discrimination within the meaning of this title? . . .

"Answer: An employer who obtains his employees from a union hiring hall through operation of a labor contract is still an employer. If the hiring hall discriminates against Negroes, and sends him only whites, he is not guilty of discrimination—but the union hiring hall would be."

We would like the Labor Department to justify the Philadelphia Plan's apparent conflict with the intent of Congress that Title VII should not interfere with union seniority systems.

In debating Title VII in 1964, Senator Humphrey said that ". . . there is nothing in it that will give any power to the commission or to any court to require hiring, firing, or promotion of employees in order to meet a racial 'quota' or balance."

I believe the Philadelphia Plan requires just such a racial balance or quotas, whether that quota is disguised as a "target", a "goal", a "range", or a "standard". The Brookings Institution report found, in fact, that "the compliance specialist often applies a form of *subjective quota* in deciding how hard to push a given contractor." The report was completed more than two years ago, long before the revised Philadelphia Plan was adopted.

There is something very disquieting in all of this. In a statement made in January 1967, former OFCC Director Edward C. Sylvester admitted that "there is no firm and fixed definition of affirmative action. I would say that in a general way, affirmative action is anything you have to do to get results."

In making this statement, Mr. Sylvester no doubt had the high purpose of giving effect to his desire that all citizens be guaranteed equal employment opportunity according to ability. But his emphasis on results at the expense of procedure concerns me. We seem to have forgotten the admonition of Justice Frankfurter that "the history of American freedom is, in no small measure, the history of procedure." In seeking to raise artificially the percentage of minority group workers in Philadelphia through this misuse of an Executive Order, the Labor Department is establishing a nearsighted precedent. For if we are lax today in adhering to the law, what may happen tomorrow when that practice is adopted by those who would subvert procedure to their own evil purposes? The power to twist procedure is one no good administrator should want and no bad administrator should have. We cannot allow our legal principles to be fritted away by manipulation of the law.

There is another point which concerns me greatly, a point which has largely been ignored in the arguments surrounding the Philadelphia Plan. Section 202(1) of Executive Order 11246 requires Federal contractors to hire and treat their employees "without regard" to their race, color, religion, or national origin. It seems to me that those two words, "without regard", mean exactly what they say. They are clear and unambiguous.

Since all the sections of a law must be construed together, it is in the context of those words, "without regard," that the more general concept of "affirmative action" must be placed. Yes, the Executive Order requires affirmative action, but only affirmative action which is taken "without regard" to race, color, religion, or national origin. It is here that the Philadelphia Plan is fatally defective. It compels contractors to make decisions based precisely on those four considerations. The Plan is in conflict not only with Title VII of the 1964 Civil Rights Act, it also is in conflict with the very Executive Order under which it was created.

Whatever the courts may have decided about considering race as a factor in remedying inequities, those precedents cannot apply to the Philadelphia Plan. The language of Executive Order 11246 places an ironclad ban on racial considerations in employment by Federal contractors. It is no more legal for the Labor Department to reverse the meaning of the words "without regard," than it would be for the Department to mis-spend a Congressional appropriation.

I do not argue that the labor unions are violating the 1964 Civil Rights Act, and I want to make it very plain that this hearing is not designed to criticize labor organizations in any way. However, I must point out—and I am sure that the Labor and Justice Departments are aware—that the 1964 Civil Rights Act gives them ample tools to bring suits against labor organizations if they have sufficient evidence of discrimination and can prove it in open court. It therefore appears to me illogical and unfair that the Department of Labor prefers to attack the alleged problem of exclusion by penalizing the contractors, who play no role in the membership practices of labor organizations.

During the course of the Philadelphia Plan controversy, the Comptroller General has been accused of exceeding his authority in finding the Plan unacceptable because it violates Title VII. I want to comment on that criticism now. Under 31 U.S. Code 65, the Budget and Accounting Act of 1921, the Comptroller General is directed to determine whether "financial transactions have been consummated in accordance with laws, regulations, or other legal requirements." Without question, that statute provides the Comptroller General with the authority to check the Philadelphia Plan against any and all laws, not merely those which deal with procurement.

Finally, the Subcommittee has before it S. 931, a bill introduced by Senator Fannin, which would make Title VII the sole means of enforcement and remedy in the field of equal employment. It would suspend the use of Executive Order 11246. We welcome the comments of our witnesses on that bill.

EVERETT McKINLEY DIRKSEN

Mr. ERVIN. Mr. President, I deeply regret that I was unable to be present at the memorial service for our late colleague, Everett McKinley Dirksen.

Everett Dirksen did not go gentle into that good night.

With advancing years, his light grew even brighter. As illness crept upon him, his spirit, his will, his great intellect raged against the idea of a dying light—until the tragic and sudden end when he could rage no more. If his life had great meaning for those he loved, and who loved him, his absence has greater meaning. Everett Dirksen's empty chair is a symbol of the untruth of that great maxim which in our overzealous modesty or our attempt to avoid duties, we sometimes quote too easily: the adage that "no man is indispensable." I think we who served with him shall find that this man was indispensable and that his place will not be filled. Certainly the Senate will never be the same.

This was a man placed by history, by circumstances, and by his own vast talents in a unique position. It is one of the blessings of our Constitution and our system of government that at a critical moment, such a man is cast into the American political process, to help mold and eventually to help govern it. This Senator from Illinois was one of those who truly helped to govern. He held power, and not just power in a structured, legal sense. Had he chosen that path, he might, I believe, have been President of the United States, for surely he had the requisite qualities of mind and heart and an uncanny sense of the popular will. Rather, his power lay in those incalculable and intangible weapons of experience, of accumulated wisdom, of infinite ability to influence and persuade others to his view.

For the young people, especially those in Illinois, who may find him in their history books, it should be emphasized how proudly this man brought to his national service the sum total of his experiences and his successes under our form of government. As a youth, he knew poverty and he worked hard to achieve his education.

He served in the Army in World War I on the western front where he was constantly exposed to enemy fire, a fact which helped him to develop a unique outlook on life and its brevity. He served 16 years in the House of Representatives and 19 years in the Senate. He was minority leader, a member of the Judiciary and Finance Committees and of the Special Committee on Aging. For the people of Illinois, he performed constant services, officially and unofficially.

Many people have said he was an old-fashioned man. Of one thing we can be sure, his life, while full of rare grace and style, was no anachronism. He was the embodiment of the truth that the greatest fulfillment of man's God-given abilities is realized through meaningful service to his fellowmen and through his relationships with society. In this age, when many about us cry of alienation and irrelevancy, Everett Dirksen's life testifies to total involvement with the social and political processes of our society. He believed deeply that these processes are relevant for the problems of today. Endowed with an innate sense of what is enduring, he did not dismiss modernity.

Devoted to the ideals of constitutional liberty, he fought in the Senate to assure that under our form of government the individual will never be irrelevant.

While he helped to fashion many laws, it might be said that his greatest contribution to freedom was his prevention of passage of ill-advised laws which would have done violence to our political liberty.

He was a family man, a religious man, a professional man, a political man, a man who gloried in the happinesses of life that come with love of friends and family, with the beauties of nature, and with service to his country. We shall not see his like again.

Mrs. Ervin joins me in extending deepest sympathy to Mrs. Dirksen and to members of his family.

OPPOSITION TO JUDGE HAYNSWORTH BASED UPON HIS CIVIL RECORD

Mr. GOODELL. Mr. President, on October 2, I announced publicly that I would vote against the nomination of Judge Clement F. Haynsworth to be Associate Justice of the United States. I urged the President to withdraw his nomination.

At that time, I said that, although I was deeply troubled about the alleged conflicts of interest which had been raised against him, he had not profited from those conflicts of interest directly and I would not vote against him on that basis alone. I said that I opposed him because of his past decisions in the area of civil rights. I reiterate that position today.

I oppose him because we are in the midst of a social revolution in this country. This is a central fact of our time. That revolution is a reaction to the inequality of our past and present society, democratic in concept, but never fully responsive to the needs and rights of all of our people.

On the great social issue of our time, that of civil rights, Judge Haynsworth has been found wanting.

Time and again he has rejected demands of the landmark 1954 decision of the Supreme Court in Brown against Board of Election.

He spoke for segregation when he voted to allow the school doors of Prince Edward County, Va., to remain closed to Negro children, by supporting "freedom of choice" in the public schools in that State's "massive resistance" scheme.

He spoke for segregation when he defended discrimination against Negroes in federally aided hospitals.

I supported the nomination of Judge Burger to be Chief Justice of the United States. I believe that the unanimous decision of the Supreme Court in its ruling on Wednesday calling for immediate integration in Mississippi and rejecting two precedents written by Judge Haynsworth which called for delay is further reason to oppose his nomination. If confirmed, Judge Haynsworth would become the first Justice to breach the Supreme Court's apparently solid front on civil rights matters.

We must heed promptly the just demands of our contemporary American revolution. This imperative requires us to act affirmatively to prevent the appointment of Judge Haynsworth.

Although the President normally should have the broadest latitude in selecting men of his own choice for high office, I believe that a Supreme Court

nominee, who is appointed for life, must be subject to special scrutiny by the Senate. That special scrutiny was afforded last year when President Johnson appointed Justice Fortas to be Chief Justice of the United States.

Judge Haynsworth has failed the test on civil rights. He has been consistently wrong in his judicial capacity on one of the most important issues facing our country.

I again, therefore, urge President Nixon to withdraw the nomination of Judge Haynsworth.

ORDER OF BUSINESS

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

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

NOMINATION OF CLEMENT F. HAYNSWORTH, JR., TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT

Mr. MOSS. Mr. President, in the discussion carried on concerning the nomination of Judge Haynsworth to the U.S. Supreme Court, one often hears that it is unprecedented to question a nomination and that the Senate should accept the President's choice unless it could be shown that the individual is either corrupt or incompetent. Mr. Anthony Lewis has written an article which appeared in the Sunday Times of October 19, 1969, to show that the Senate has very often refused to confirm nominees on grounds other than corruptness or incompetence. For the purpose of illuminating the dialog, I ask unanimous consent that this article be printed in the RECORD.

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

THE SENATE AND THE SUPREME COURT

(By Anthony Lewis)

WASHINGTON.—In their irritation at the opponents of Clement Haynsworth, some Administration officials are now saying that the issue in the confirmation fight is nothing less than the President's right to appoint Supreme Court Justices. The Senate, they argue, is trying to undermine that prerogative; Senators should support a President's choice for the Court unless he can be shown to be corrupt or incompetent.

But history contradicts that narrow view of the Senate's role. In fact, over the years, the Senate in considering nominations to the Supreme Court has rejected "a proportion far higher than for any other Federal office." So says a leading study, Joseph P. Harris's "The Advice and Consent of the Senate."

In the nineteenth century, when senatorial scrutiny was at its most rigorous, 72 men were nominated to the Supreme Court and eighteen of them—one quarter—failed of confirmation. The eighteen does not include a few others who declined the honor.

Nominees were rejected for a variety of reasons, because of their philosophy or politics or ability or temperament. Some lost in formal votes of the Senate; other nominations were withdrawn in the face of opposition.

President Madison, for example, nominated a Connecticut Collector of Customs, Alexander Wolcott in 1811. Charles Warren, the great Supreme Court historian, said the general feeling was that Wolcott was a man of "somewhat mediocre legal ability." For that reason a Senate overwhelmingly of Madison's party rejected the nomination, 24 to 9.

GRANT'S NOMINATIONS

Grant tried three times before he could get a Chief Justice confirmed. His first choice—George H. Williams, his Attorney General—was criticized as a "second-rate" lawyer. His second, Caleb Cushing, a former judge of the Supreme Judicial Court of Massachusetts, was eminently qualified. But Senators were uneasy at the fact that he had been successively a Whig, Democrat and Republican. The opposition eventually found that he had written an innocent letter to Jefferson Davis during the Civil War and used that to rally opinion against him. Both nominations were withdrawn.

Other nominees in the last century were defeated because they were partisan Whigs in Democratic times, or because they had offended Senators, or because in other offices they had followed objectionable policies. No one could read the record without concluding that Senators in those days felt quite free to make their own appraisal of any man chosen to say the last word in our constitutional system.

Today, most Senators would be more sophisticated and more restrained in the use of their confirmation power. Ironic exceptions are Senators Thurmond of South Carolina and Eastland of Missisippi, two of Judge Haynsworth's principal backers, who have not hesitated to oppose anyone suspected of liberal tendencies. They voted against the only three nominees to the Warren Court who were put to a record vote in the Senate, Justices Harlan, Stewart and Marshall.

The question for most members of the Senate in 1969 is not one dimensional. For example, the fact that a nominee is a so-called strict constructionist in constitutional matters would not necessarily make Senators of a different outlook oppose him; it is easy to think of judicial conservatives whose high intellectual qualifications would have smothered the thought of opposition on philosophical grounds.

The point about Judge Haynsworth is that he does not have such high intellectual or legal qualifications. Few would call it a distinguished appointment.

POLICY AND ETHICS

Along with that basic ground for opposition are doubts about policy and ethics. Those who feel the doubts might say that Judge Haynsworth is a man from a narrow background who has not altogether surmounted it in his view of life and the law, and that in his commercial dealings while on the bench he has at best shown insensitivity to the appearance demanded of judges.

In short, the argument against Clement Haynsworth is not that he is an evil man, or a corrupt one, or one consciously biased. It is that he is an inadequate man for a lifetime position of immense power and responsibility in our structure of government. And any Senator who reaches that conclusion is quite entitled, in precedent and in reason, to oppose his confirmation.

WISE WORDS OF ERNEST GRUENING

Mr. YOUNG of Ohio. Mr. President, one of the first Members of either branch of Congress to speak out against our involvement in an ugly civil war in Vietnam was former U.S. Senator Ernest Gruening of Alaska.

As far back as 1964, former Senator Gruening clearly recognized that we were involved in an immoral war in a little faraway Asiatic country of no importance whatever to the defense of our Nation. From that time until the time he left the Senate, Senator Gruening spoke out loud and clear in denouncing our involvement in this land war in Southeast Asia. He was among the small band of Senators and Representatives who repeatedly denounced President Johnson's escalation of that civil war into an undeclared American air and ground war. He was one of two Members of the U.S. Senate who voted against the Tonkin Gulf joint resolution in August of 1964. Citizens of our country are indebted to him for his leadership in helping to bring to their attention the folly of our Vietnam involvement.

On moratorium day, October 15, 1969, former Senator Ernest Gruening addressed five public meetings of citizens who had gathered to urge the Nixon administration to expedite the withdrawal of our forces from Vietnam and to hasten efforts toward peace. He spoke at the Georgetown University Law School, at a public meeting at Farragut Square in Washington, D.C., at Johns Hopkins University in Baltimore, Md., and before a crowd of 10,000 assembled at the city hall in Baltimore.

His speech was a masterly presentation of the case for ending our involvement in Vietnam at the earliest possible date and for bringing more American GI's home, instead of a mere token number that have been brought home to date.

I commend this address to my colleagues, and I ask unanimous consent that it be printed in the RECORD at this point.

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

ADDRESS BY ERNEST GRUENING, MORATORIUM DAY, OCTOBER 15, 1969

If the war in Southeast Asia is to be ended—this totally unjustified, needless, illegal, immoral, monstrous war—it will be ended only by an uprising of the American people, of which, let us hope, today's demonstrations are just the beginning.

For it has long been clear that the war will not be ended by the Executive Branch, which after nine months in office, has failed to carry out its campaign promise to end the war. Meanwhile, our boys are continuing to die, and they are dying in vain, as indeed they have since they were first sent to fight in Southeast Asia. Nor will the war be ended by the Legislative Branch, which could do so by refusing to vote for the military authorizations and appropriations to carry on this war. There are, to be sure, hopeful signs of revolt on the part of a few enlightened Senators and Congressmen, but unfortunately they are still a small minority in each body. There is in my judgment no likelihood that the sound and sane proposals of Senator Goodell of New York or Representative McCloskey, and others to call for the withdrawal of all troops by a date certain will receive the needed majority in the Senate and House, desirable as that would be. I wish I could call the names of this minority for it is an honor list which deserves recognition and acclaim.

As an all-out opponent of our military folly in Southeast Asia, having made, on March 10, 1964, the first full length speech against it made by any public officials, which was entitled "The U.S. Should Get Out of Vietnam", and as one of the two members of the Senate who voted against the Tonkin Gulf Resolution in August of 1964, I have been increasingly convinced that we cannot continue to call this Johnson's war and now, despite nine months of inaction, Nixon's war. Great as was and is their responsibility for this fiasco, responsibility should now be centered in the Congress, which has had the power to end this war and could do so. It is no less than criminal to keep sending our draftees to fight in violation of their consciences, to kill people against whom they feel no grievance, get killed or maimed in the process, with the alternative if they refuse to go, of going to jail for 5 years of hard labor. This is an infamous dilemma to which no American citizen should be subjected, nor indeed, any citizen of a society which calls itself free. And I say to you that any member of Congress, any member of the Senate or House of Representatives, who continues to vote for the authorizations and appropriations to carry on this monstrous war is a participant in the crime, and the blood of everyone of our boys who dies henceforth is on that Senator's or Representative's head who votes to support the continuing slaughter. Carry that message to your Representative or Senator in every Congressional District and in each state. I would say parenthetically, that those gestures of *reforming* the draft proposed at various times on the Hill, and again more recently by President Nixon, on the ground that the present selective service law is unjust, are meaningless. It is the draft itself for *this* war which is unjust and unjustified and is the monstrosity. It makes little difference when our boys are subjected to involuntary servitude, which, incidentally, is forbidden by the Thirteenth Amendment, whether they are made cannon fodder by lot or by any other method; the draft itself, however reformed, is unjust and should be abolished for service in Southeast Asia, an amendment I twice proposed while I was in the Senate.

We can understand how five years ago the members of Congress were misled and deceived by the Executive Branch and so collaborated with it to commit our nation to a disastrous folly which to date has caused the death of 40,000 fine young Americans in combat, some 10,000 more incidental to their being in Southeast Asia, and has wounded over a quarter of a million more, some crippled for life, and the slaughter of hundreds of thousands of innocent civilians, old people, women and children.

But today, after five years of deepening disaster, of continuing loss of life, the squandering of $125 billion so sorely needed for our overdue and neglected problems at home—pollution abatement, crime control, slum clearance, housing, education, conservation, and much else—there is no longer any excuse for any member of Congress to vote to continue this madness.

Let it be clearly understood that this is a war that we cannot win and should not want to win in the conventional military sense. But we *can* win it by a confession of error, by getting out and letting the people of Southeast Asia settle their own problems. *That* would be victory snatched from the jaws of continuing defeat.

Let it be clear also to all that the policies that we have pursued in Southeast Asia not only have not achieved the proclaimed objectives, but that they could not possibly do so. They could not do so because in the first place they were based on falsehood. When President Johnson in his State of the Union Message after election gave the reasons for our presence in Vietnam, namely that we were there in response to a plea for help from the South Vietnamese people to help them repel aggression, he was not telling the truth. The record is completely bare of any such request. On the contrary, we asked ourselves in. But even assuming that such a request had taken place, what kind of saving of the South Vietnamese interest has resulted? Hundreds of thousands of them killed or maimed, millions made refugees, their homes destroyed, their rice paddies laid waste—what nation will ever want to be again saved by us? On the other hand, in regard to the second reason alleged for our being there, namely to stop Chinese expansion into Southeast Asia, we adopted precisely the wrong course. We should instead have supported Ho Chi Minh, a Moscow trained Communist, but pre-eminently a nationalist, who embodied the Vietnamese fear and dislike of the Chinese and under whose leadership the Vietnamese would have resisted Chinese expansion, had it been threatened, which is by no means certain, just as they have throughout their history resisted the invasion of all other outsiders—the French, the Japanese, and now the Americans. Let me say, as one whose opposition to our policy in Southeast Asia long preceded the rising tide of revolt against it, that there can be no peace by negotiation. There is nothing to negotiate. The Southeast Asians who are our adversaries consider that the United States is the intruder, the invader, and the aggressor, a view which the record confirms, and they will not yield. They will insist that we get out. And, why shouldn't we? For those who are talking about finding "an honorable way out" what could be more honorable than to disavow our mistake and our dishonorable course to date and let the people of Southeast Asia determine their own destiny. Whatever that determination, it will be better than one imposed by us in collaboration with the crooked, dictatorial regimes in Saigon, which we have supported for years and none of which would ever have lasted 24 hours without our military and financial support. When we consider the sleazy character of those puppets, who have suppressed all freedoms and jailed their political opponents, it makes the official allegation of wanting to free and save the South Vietnamese, a grotesque mockery. Finally, it should by now be clear that the United States has been misled, tricked, and lied into this war. I have already referred to the falsity of the allegation that we were asked by a friendly government to help it repel aggression, but there was much more deception. During his 1964 campaign for the Presidency, President Johnson asserted not once, but repeatedly, that he would not send American boys to fight a ground war on the continent of Asia. He asserted not once, but repeatedly, that he would not send American boys to do the fighting that Asian boys should be doing. He was swept into office on the basis of what the American people considered solemn pledges, yet all the time he was making these pledges, plans were being matured at the Pentagon to do the very thing he pledged not to do. And, finally, there are the revelations that the Gulf of Tonkin incident was wholly spurious. The hearings of the Senate Foreign Relations Committee and the complete summary in the recently published book by Joseph Goulden, entitled, *Truth is the First Casualty*, make clear how different were the true facts from those presented to the Congress in President Johnson's message to Congress in August 1964, requesting it to approve the White House-drafted, Gulf of Tonkin Resolution. Far from being, as he alleged, a case of an American destroyer on a routine mission in international waters, wantonly attacked without provocation, we learn now that the Maddox was not a destroyer on a routine mission in international waters, but a spy ship like the Pueblo; that she was *not* in international waters, but had penetrated the coastal waters of North Vietnam, and this was moreover happening at a time when the South Vietnamese were staging a raid with ships supplied by us and under our direction on North Vietnam ports, and that the Maddox had received instructions to draw some of the defensive North Vietnamese vessels away. In other words, from the standpoint of the North Vietnamese she was engaged in hostile operations which fully justified their attack upon her. However, even in this attack she was never hit. The allegation that the next day there was a further attack on her and another U.S. destroyer, the C. Turner Joy, was likewise without foundation. In other words, from start to finish the people of the U.S. were misled, lied to and tricked into this war. And so, clearly the most honorable way to end this dishonorable business, is to get out and not sacrifice one single more American boy's life or squander a single American dollar more in the most disgraceful, inexcusable, and disastrous episode in American history.

On top of all this the American people should be informed if they do not already know it, as I fear many do not because of administration propaganda, that our military intervention in Southeast Asia is in violation of every pertinent treaty to which we are a signator, and the Constitution of the United States, Article Six, provides that, and I quote, "all treaties made under the authority of the United States shall be the supreme law of the land".

We are first of all in violation of several provisions of the United Nations Charter, which the United States played so large a part in bringing in to existence.

We are in violation of the SEATO Treaty.

We are in violation of the pledge to support the Geneva accords and hold elections throughout Vietnam. When we reneged on this solemn commitment this reneging coupled with the tyrannical acts of our first puppet, Ngo Diem, caused the civil war in South Vietnam which has been going on ever since.

We are likewise in violation of the Constitution of the United States which gives only the Congress the power to declare war. There is no time for me on this occasion to document all of these violations. I have repeatedly spelled them out in detail in various Senate speeches.

On the whole, our Vietnam misadventure is an unredeemed, shocking story of betrayal of America's finest, noblest traditions, professions, and practices. It is high time we reverted to an America whose leaders' word can be trusted and whose military mission is one of *defense* of our country, and not of global policing with offensive action anywhere at the behest of the Executive.

It is heartening that American youth and others are today mobilizing to try to put an end to this tragic and disgraceful situation. We must all continue to work to achieve that result and turn the course of history back to when our country's policies were those we could, as we once did, esteem, love and cherish.

ORDER OF BUSINESS

Mr. YOUNG of Ohio. 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. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SELECTIVE SERVICE REFORM

Mr. GRIFFIN. Mr. President, a little earlier, on the floor of the Senate, the distinguished majority leader made a statement clarifying the situation with

respect to the leadership's position regarding draft reform legislation and the possibility that it might be considered in this session.

Another matter, however, was raised in the colloquy which took place on the floor last Thursday—I will say to the majority leader, in passing, that I notified the distinguished assistant majority leader earlier indicating that I would make reference to him and to some remarks which he had made earlier. Accordingly, he is aware of the statement I am about to make. Otherwise, I would not make it.

Last Thursday, the distinguished assistant majority leader made some remarks, and I wish to quote them:

> But I think we perpetrate a fraud on the young people of this country if we think we are acting on draft reform just by eliminating four words in the 1967 act and then say that this is reform, because it is not.

The distinguished assistant majority leader was saying, as I understood him, that President Nixon's proposals for reforming the draft legislation were not reform at all. It is true that President Nixon is asking Congress to make only one legislative change which will involve the repeal of four words; that change would permit the designation of draftees by the random or lottery method of selection. The rest of the President's draft reform program can be implemented by Executive order, and he stands ready to do that. Now I return to the question of whether the President's total program is, or is not, draft reform.

President Nixon announced his draft reform program on May 13—the program for which he seeks cooperation from Congress to put into effect. On May 13, when the program was sent to Congress, the distinguished assistant majority leader (Mr. KENNEDY) made some remarks which I think was very appropriate. He said:

> President Nixon deserves the accolades of all of us for his forthright recognition of the need for reform in our draft. This is a subject high in the minds of our young people; it deserves a place high on our agenda as well.
>
> President Nixon has today sent to Congress a message of great significance—a message calling for basic reforms in the way we select young men for military service.

I quote another part of his remarks:

> President Nixon's proposals embody the reforms we most urgently need—moving to the youngest first, adopting random selection, reducing the period exposure to the draft, insuring that educational deferments do not become de facto exemptions, and others.

I now quote another passage from his remarks:

> There is no reason whatever to delay approval of the President's recommendations, and perhaps to work other needed changes in the draft laws at the same time.

Mr. President, I ask unanimous consent that the full text of Senator KENNEDY's remarks be printed, so that his complete statement will be available at this point in the RECORD.

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

THE PRESIDENT'S MESSAGE ON SELECTIVE SERVICE REFORM

Mr. KENNEDY. Mr. President, President Nixon deserves the accolades of all of us for his forthright recognition of the need for reform in our draft. This is a subject high in the minds of our young people; it deserves a place high on our agenda as well.

President Nixon has today sent to Congress a message of great significance—a message calling for basic reforms in the way we select young men for military service.

Most young people in the United States know that the draft we have today operates unfairly, unpredictably, and unevenly. They know that avoidance of the draft is not a difficult matter for those with the means—financial and intellectual—to seek out the loopholes. They know also that other young men do not have the means to avoid the draft, and that these young men may be fighting in the jungles of Southeast Asia, and dying there. The most persistent call for basic reforms in the draft comes from these young people themselves, and many educators have long pointed out the cynicism the present system and its resistance to change has engendered in the young people.

But most of those who have studied the draft in any depth, too, have recognized the need for drastic changes. The Burke Marshall Commission, particularly prepared an eloquent call for reform in its 1967 report. The Senate passed in May of 1967 a bill extending the draft for 4 years which permitted the President to make most of the necessary reforms, but this farsighted bill did not survive the conference committee, and the extension bill which did pass the Congress in June of 1967 was harsh and restrictive, actually making matters worse than they were before Congress took up the extension bill.

President Nixon's proposals embody the reforms we most urgently need—moving to the youngest first, adopting random selection, reducing the period of exposure to the draft, insuring that educational deferments do not become de facto exemptions, and others. The proposals come warmly welcomed by those of us who have long urged these reforms. In February, I introduced an extensive bill making these reforms and others; a number of additional Senators and Representatives have done similarly. There is no reason whatever to delay approval of the President's recommendations, and perhaps to work other needed changes in the draft laws at the same time.

President Nixon, in his message, pointed out that we do not now know whether it is feasible to move toward an all-volunteer armed force. A part of the reason is—as I and others have pointed out—that we simply do not have enough information on the costs and implications of a professional army. Until we do, our wisest course is to move swiftly to make the draft fair, predictable, and even.

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

Mr. GRIFFIN. I am happy to yield to the distinguished Senator from New York.

Mr. GOODELL. Mr. President, I commend the junior Senator from Michigan for his statement. I agree with him. I think the Senate should move without delay and consider the President's draft proposals. We may want to make some changes in them.

I agree with the statement of the Senator from Massachusetts that the President has made the essential recommendations for changes in the draft that are most necessary, primarily to give the emphasis to taking the youngest first, letting our young people know in advance the obligations they will have, and the names of those to be inducted called at age 19 or not at all; and second, to select these young men on the basis of a fair and uniform system, such as a lottery. There are other suggestions I have made and that other Senators have made. There is no reason those suggestions could not be added either in this session of Congress or in the session next year. But to say we should delay making these basic and fundamental changes because there are other changes we might want to consider I think is a grave mistake. Also, I think it is an injustice to our young people. The present Selective Service System is demonstrably unfair and should be corrected, and the sooner the better.

I appreciate the fact that the Senator from Michigan has once again called this matter to the attention of the Senate, and particularly to the Democratic leadership which controls this matter.

Mr. GRIFFIN. I thank the distinguished junior Senator from New York for his contribution.

If there is one issue that is a cause of unrest and concern among young people on the campuses—one issue beyond the war in Vietnam itself—that issue is the inequitable draft system.

The point was made in the colloquy Thursday that President Nixon could go ahead and put his reforms into effect by Executive order. That is not true. The key feature of the reform program is a proposal that draftee selections be made on a random or lottery basis. Of course, the other parts of the program are also very important.

An argument was made that without enacting legislation the President could put into effect a kind of substitute for the lottery or random selection method—a substitute conveyor belt system under which birth dates would be used as a basis for selection. It is time that President Nixon could put into effect a substitute; but it is generally agreed by experts that it would not be an adequate substitute. I understand that such a substitute could be something of an administrative monstrosity. It would unfairly discriminate against some young people who happen to be born in one month rather than in another month. I understand that statistically our records indicate there are 19 or 20 percent more births in some months of the year as compared with other months.

As I understand the operation of a substitute system, it not only would discriminate against persons born in certain months, but it would also be poorly understood because it would be very complicated.

It seems to me clear that Congress has a legislative responsibility which it should face up to. The fact that Senators want more comprehensive reform is no justification for doing nothing. Certainly, that approach will not quiet the dissent. For if Congress does nothing we would be fanning the flames of unrest that we see on our campuses today.

Accordingly, I welcome the announcement made by the distinguished majority leader, which is a clarification of the

impression that was left on Thursday. And I commend to the distinguished assistant majority leader (Mr. KENNEDY) the words which he uttered on the floor of the Senate, and which were printed in the RECORD on May 13, the day President Nixon sent this important legislation to Congress.

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

The PRESIDING OFFICER (Mr. BYRD of Virginia in the chair). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CRIME IN THE DISTRICT OF COLUMBIA AND UNITED STATES AGAINST WILLIAM B. McPHERSON

Mr. McCLELLAN. Mr. President, the report of the anticrime committee of the New York branch of the NAACP observed:

> The reign of criminal terror in Harlem must be stopped now. The lives and property of the people are in constant danger by day and by night. This is true whether they be black or white, male or female, young or old. Indeed the old, the weak, and the handicapped are the special prey of marauding hoodlums.
>
> The economic, civic, religious and social life of the community is being strangled. Thousands are so grateful for having reached home without being "mugged" and found their homes not yet burglarized that they dare not "tempt fate" by venturing out at night unless it is absolutely necessary.

What the committee observed of Harlem might equally be observed of the District of Columbia.

Washingtonians, white and black alike, have become thoroughly alarmed by the relentless increase in the city's rate of serious crimes in the last 2 to 3 years. Police classify as serious crimes homicide, rape, assault, robbery, burglary, larceny, and auto theft.

In the first 6 months of 1967, the District's rate stood at just about 31 serious crimes for every 1,000 residents of the city. That represented an increase of 8 per 1,000 over the first half of 1966.

By the first 6 months of this year, the crime rate had shot up nearly 50 percent from 1967—to 45 for each 1,000 people living in the city. The rate is still going up.

Street robberies are up, too. In a typical 24-hour period recently, city police investigated 27 such robberies. Of the victims, one was shot, 13 others assaulted. Most occurred in the central sections of the city, about half of them after dark.

The number of robberies has more than doubled in 2 years. It is now to the point that monthly totals—1,049 in July, 1,226 in August—are higher than the yearly totals for 1960, 1961, 1962, or 1963.

The patterns of robbery vary. A couple of years ago the typical target was the liquor store. But a lot of liquor store owners and other merchants have armed themselves and shown a willingness to fight back.

Last year it was the banks' turn. In some months, more than a dozen banks were hit.

At this point, much of the city's robbery problem is concentrated on stores that are difficult to guard, where the personnel are not likely to be armed. At his recent White House appearance with President Nixon, October 10, District Chief of Police Wilson produced figures showing that Safeway stores in the city were robbed 53 times, the stay-open-late High's Dairy Products stores 156 times.

Chief Wilson told the President:

> [The Safeway Stores] have tried to combat [these robberies] with armed guards. The consequence has been that they have had one armed guard killed and another shot. They have difficulties now hiring them. These holdups range from one individual who holds up a check-out clerk and the manager doesn't know she is held up until he is gone, to an incident two weeks ago in Northeast where five armed men go in and make 100 customers lie on the floor until they rob the store.
>
> This does something to the stores. They can't get competent help to work in the store. It forces the residents of the downtown area to go to the suburbs to shop because they are afraid to go to the neighborhood store.
>
> Safeway will have a quarter of a million dollars in holdups this year.

He then commented on High's robberies:

> It is a favorite of the holdup men. In this case, they tend to hire low-paid women who live in the neighborhood. These women often know who held them up, but they are afraid to tell the police because the man is often back on the street. So it is impossible to find out who held them up.

By the end of 1969, District crime records probably will show more than 15,000 robberies committed during the year.

And they will show some 20,000 burglaries.

Many, possibly more than half, of Washington's burglars are dope addicts. They hit any place, city or suburbs, that appears to be unprotected. They take anything they can carry if it looks salable.

Mr. President, some have suggested that this rise in violence and lawlessness in the District of Columbia and elsewhere in the United States is the product of socioeconomic factors wholly outside of the reach of our criminal justice system. They criticize, too, those of us who suggest that the ill-considered actions of some of our courts have played a substantial part in the creation of this intolerable situation.

Mr. President, I do not suggest for a moment that socioeconomic factors play no part in the complex causation of the commission of crime, but I do suggest that our courts must shoulder their part of the blame, and I should like to now illustrate what I mean by discussing a recent decision of the Court of Appeals here in the District of Columbia, *United States* v. *William B. McPherson*, No. 22-312 decided October 3, 1969.

In December of 1967, two police officers, responding to a housebreaking call, apprehended McPherson in the hallway of an apartment building, carrying a radio that belonged to a resident of the building. The thief was thus caught "redhanded" at the scene of the crime, and in April of the following year he was brought to trial for petty larceny and second degree burglary. After all of the prosecution witnesses had testified, the defendant asked to be released on a Friday evening on bond in order that he might locate certain supposed witnesses for his defense. I note here that his release shows the degree to which the trial judge sought to accord to the defendant all conceivable rights. McPherson was told by the trial judge in no uncertain terms that there would be no excuses for his failure to appear the next Monday for the continuation of his trial. The court observed:

> The COURT. [T]here will be no excuses whatsoever accepted by this Court for your failure to appear. Do you understand?
>
> The DEFENDANT. I will be here. I will be here.
>
> The COURT. No sickness, anything—there is only one thing that can happen to you in the interim, and I am not wishing that upon you. But aside from that, you will be here.
>
> The DEFENDANT. I will.
>
> (Slip opinion at 9)

Nevertheless, the defendant was absent not only on Monday but again on Tuesday. The defense informed the court that efforts to locate McPherson had been unsuccessful and recommended that the judge declare a mistrial since McPherson was the only defense witness and without him there was no defense case. The court, however, chose to continue the trial in the defendant's absence under the authority of Federal Rules of Criminal Procedure, Rule 43, which, in pertinent part, provides:

> In prosecutions for offenses not punishable by death, the defendant's voluntary absence after the trial has been commenced in his presence shall not prevent continuing the trial to and including the return of the verdict.

The trial resulted in the only possible verdict: guilty.

On appeal, however, the District of Columbia court of appeals, in an opinion by Chief Judge David Bazelon, in which Circuit Judge Robinson concurred, reversed McPherson's conviction on the incredible ground that because neither the bail form McPherson signed nor the trial judge himself had specifically and explicitly informed the defendant that the trial could proceed in his absence, his voluntary absence from the trial was not a voluntary waiver of his right not to have a trial proceed without him. This ruling was made in the face of the fact that the only reason for McPherson's absence from the trial was that "the defendant became depressed, for personal reasons, and got drunk." (Slip opinion at 5.)

Circuit Judge Tamn dissented, making the acute observation:

> The real question in this case is not whether the defendant knew that the trial could proceed in his absence but whether he knew that he had a right to be present at the trial and waived it. (Slip opinion at 8)

Mr. President, Chief Justice Warren Burger recently observed that our American system of criminal justice was the "most elaborate system ever designed by

a society. It is so elaborate that in many cases it is breaking down. It is not working." In few areas of the Nation are the Chief Justice's comments more apt than here in the District of Columbia, and the court of appeals decision in McPherson is a classic example of why.

People can argue and propagandists can contend that the actions of the courts in liberalizing the rules of procedure to benefit the criminal and fail to protect society are not having an impact upon lawlessness in this country. Nevertheless, here is a man found guilty, and the court undertaking to accommodate him, at his request, in giving him an opportunity to bring in additional witnesses for his defense with the clear understanding, and the admonition, that nothing would excuse him from being present in court on Monday morning, save one thing—the implication being death—which the judge hoped would not happen.

Instead the guilty man chose to go off and get drunk and to defy the court and did not show up, not only on Monday, but also Tuesday, so that the court went ahead with the trial and the jury returned a vote of guilty.

It was the only verdict that could be returned under the evidence. Yet he goes to the court of appeals in the District of Columbia, and two judges on that court find a flimsy, unrealistic excuse to set aside the conviction.

I am asked why there is throughout this country today a lack of confidence in our system of justice.

Where was there any justice to society in this ruling?

Where will this precedent lead?

If the judge had told him everything that those two appeal judges said he should have told him, I am persuaded they would have found some other excuse to set aside the conviction or to turn the guilty person loose.

There is a responsibility on the part of courts to uphold the law, and not to circumvent it by this sort of illogical reasoning.

I make the statement again that there is an obligation on the courts to enforce the law, and not to circumvent it. There is as much duty on the courts to protect society under the law as there is to see that the accused is given his constitutional rights.

Mr. President, often it is a year or more before someone arrested for a crime here in the District is brought to trial. The 1968 report of the Director of the Administrative Office of the U.S. Courts records that the District of Columbia has the highest number of criminal cases pending and the second highest number of cases pending over 6 months. In median time for disposition from filing of the indictment, the District is exceeded only by Rhode Island and New Jersey, neither of which approach the District in backlog. Because of this time lag, and a number of high court decisions, such as the McPherson case, judges here in the District have no choice but to release arrested persons on bail, including hardened criminals and dope addicts. The young man arrested for armed robbery, as Chief Wilson recently told the President, is "likely to be out on the street almost before the police officer completes the paper work." And these persons remain on the street awaiting trial for long periods of time, time within which they are free to steal and to rob again and again.

Mr. President, we must frankly recognize that a large part of this overload in the criminal justice system is a result of appellate judges, like those in this decision, seizing upon the flimsiest of excuses to require new trials for obviously guilty defendants. This case clearly shows the cost to our society of neither imposing sufficiently strict criminal sentences to isolate the criminal nor rehabilitating him. McPherson's criminal record centered almost exclusively in the District of Columbia, reaches back to 1936. He has been involved in several narcotics violations, but his vocation has been crimes of theft. I suppose that goes along with his narcotic record. He has been arrested some 22 times for larceny, housebreaking, or robbery. The trial judge observed that McPherson had the worst criminal record that he had seen in his 20 months on the criminal trial bench. (Slip opinion at 8.) It shows a history of over 20 convictions and 40 arrests within the span of 28 years. Yet he got special treatment in the court of appeals in the District of Columbia, while society was ignored.

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

Mr. McCLELLAN. I ask unanimous consent to have 3 more minutes.

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

Mr. McCLELLAN. Mr. President, it is senseless for us to argue the role of socioeconomic factors in assessing the blame for this incredible criminal record. It is senseless, too, to punish society by making possible further crime and to punish other defendants by making possible trial delay by ordering new trials in these sorts of cases where error can only be realistically called a product of a ritualistic jurisprudence that substitutes artificial forms for substantial justice. By no stretch of the imagination could the failure of the trial judge here specifically to tell McPherson that the trial could go on without him have been anything but harmless error.

Mr. President, it is this sort of jurisprudence of technicality that is robbing us of safe streets. It is this kind of jurisprudence that is encouraging crime rather than deterring crime. Society deserves greater protection by its courts from crime. Indeed, our courts are everywhere losing that respect so necessary to the rule of law. A recent Harris poll found that a majority of our people attribute the breakdown in law and order to our courts. The courts cannot rightly receive the whole blame. They are not the only ones at fault. Yet this feeling of the people is indeed a sad commentary. It denotes a serious weakness in our peoples' confidence in our system of criminal jurisdiction and casts adverse reflections upon those who administer the system. It is time to bring a halt to these kinds of decisions.

Mr. President, I ask unanimous consent that the text of the court of appeals opinion in United States against McPherson—the case to which I have referred—be printed in the RECORD.

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

[U.S. Court of Appeals for the District of Columbia Circuit, No. 22,312]

UNITED STATES OF AMERICA *v.* WILLIAM B. MCPHERSON, APPELLANT

(Appeal from the U.S. District Court for the District of Columbia, decided October 2, 1969)

Mr. John H. Caldwell (appointed by his court) for appellant.

Mr. Robert P. Watkins, Assistant United States Attorney, with whom *Messrs. David G. Bress*, United States Attorney at the time the brief was filed, and *Frank Q. Nebeker*, Assistant United States Attorney at the time the brief was filed, were on the brief, for appellee. *Messrs. Thomas A. Flannery*, United States Attorney, and *Roger E. Zuckerman*, Assistant United States Attorney, also entered appearances for appellee.

Before BAZELON, *Chief Judge*, and TAMM and ROBINSON, *Circuit Judges*.

BAZELON, *Chief Judge:* Appellant, who was released on bail during his trial for petit larceny and second degree burglary, failed to return to court at the designated time. After a day's delay, his trial was continued without him. He contends that the District Court erred in proceeding with the trial in his absence since he made no competent waiver of his sixth amendment rights. He challenges only his five-to-fifteen-year burglary sentence and concurrent one-year larceny sentence; he raises no objection to the consecutive five-year sentence for bail jumping which was imposed at the same time.

I

In December 1967, two police officers, responding to a housebreaking call, apprehended appellant in the hallway of an apartment building carrying a radio which belonged to a resident of the building. Appellant was taken into custody, and bail was set at $5,000, which appellant was unable to meet. Following a January 3, 1968, preliminary hearing, appellant was indicted on February 28 for second degree burglary, 22 D.C. Code § 1801(b), and petit larceny, 22 D.C. Code § 2202. On March 15, 1968, appellant was arraigned and pled not guilty to both counts. The following week the Court of General Sessions reviewed his conditions for release and reduced money bond from $5000 to $1000. As appellant was still unable to raise bail, his counsel filed a motion on April 1 requesting that appellant be released to the third party custody of Bonabond, Inc.[1] At the commencement of trial on Thursday, April 18, the court reserved ruling on the Motion to Amend Conditions of Release until the following day. After receiving the testimony of the two policemen who had arrested appellant, the trial was adjourned and the jury dismissed until Monday morning.

On Friday, April 19, 1968, the court held a hearing on the bond review motion. The appellant explained that he sought his release in order to locate witnesses for his defense. Bonabond, Inc., expressed its willingness to act as third party custodian for appellant, and the court released appellant to that organization, after informing him he was to appear at 9:45 a.m. on Monday, April 22, 1968. The appellant failed to appear on Monday morning, and a recess to that afternoon likewise failed to produce him. On

[1] Bonabond, Inc., is an arm of the United Planning Organization, Washington's antipoverty agency, staffed by ex-convicts. Among its functions, it supervises recognizance bonds for selected indigent defendants.

Tuesday morning, defense counsel informed the court that efforts to locate the appellant had been unsuccessful and recommended that the judge declare a mistrial since appellant was the only defense witness and without him there was no defense case. The trial court chose, over defense counsel's objection, to continue the trial in appellant's absence under authority of Rule 43 of the Federal Rules of Criminal Procedure.[2] Following the close of the Government's case, defense counsel's motion for judgment of acquital was denied; counsel then waived his opening statement and simply stated for the record that continued efforts to locate appellant had proved unsuccessful. The trial court then ruled that appellant's absence from trial was voluntary and sent the case to the jury,[3] which returned guilty verdicts on both counts of the indictment. Appellant was apprehended on May 2, 1968. At sentencing hearing on August 2, 1968, the court inquired into the circumstances surrounding the appellant's failure to appear at trial and again ruled that his absence had been voluntary.

II

The right to be present at trial which inheres in the sixth amendment and has been codified by Rule 43 of the Federal Rules of Criminal Procedure, has long been recognized as being of fundamental importance to the just administration of the criminal law. *Pointer v. Texas*, 380 U.S. 400, 405 (1965); *Diaz v. United States*, 223 U.S. 442, 455 (1912); *Cross v. United States*, 117 U.S. App. D.C. 56, 58, 325 F.2d 619, 631, (1963). Faced with a defendant who was not present at a portion of his trial and was thus unable to testify in his own behalf,[4] the courts have the serious responsibility of determining whether "it is clearly established that his absence [was] voluntary." *Cureton v. United States*, —— U.S. App. D.C. ——, 392 F.2d 671, 676 (1968).

To comprehend defendant's story of his search for two witnesses we must attempt to appreciate the environment in which he moves. To men with numbers and addresses in the telephone directory, fixed office hours and secretaries, it may seem dubious that defendant was making an honest and diligent effort to locate witnesses when he was out "on the streets where they generally hang out" from Friday when he was released on bond to Sunday when he went to sleep, "[l]ooking and hoping to see these people or at least learn their residences." Of course, it is uncontroverted that his search did not bear fruit,[5] that he subsequently became depressed for personal reasons and got drunk, and that, although not in hiding, he failed to contact his lawyer or the court and could not be found by Bonabond.

But whatever the implausibility of McPherson's narrative, the voluntariness of his absence from the courtroom must be determined by whether the warning given him was sufficient. As this court made clear in *Cross v. United States, supra*, we will look to the standards set forth in *Johnson v. Zerbst*, 304 U.S. 458 (1938) when the government claims a defendant waived his rights under the sixth amendment and Rule 43. In *Johnson v. Zerbst* the Supreme Court defined constitutional waiver as "an intentional relinquishment or abandonment of a known right of privilege." 304 U.S. at 464 (emphasis added).[6] *Cross* establishes that it is not merely the right to be present but its corollary, that the trial not continue when one is *not* present, which must be intelligently waived.

III

In the present case, the trial judge is to be commended for his insistence in making clear that he expected appellant to be present when the trial resumed.[7] It would be difficult to believe that appellant was unaware that serious consequences would follow his failure to appear. Indeed, appellant as much as acknowledged this by pleading guilty to jumping bail, for which he was sentenced to imprisonment for a term of not less than five years, to run *consecutively* to his five to fifteen year burglary sentence. But the question still remains whether the appellant was apprised that besides bail jumping penalties an additional consequence would be the continuation of trial in his absence, which was tantamount to a guilty plea.

To secure his release on bail, appellant signed Part IV of the "Order Specifying Methods and Conditions of Release" (Bail Reform Act Form No. 2), in which he stated that he understood "the penalties and forfeitures applicable in the event that I . . . fail to appear as required." Yet the only penalty listed on Form No. 2 is that "an additional criminal case may be instituted." There is no specific warning of any other consequences set forth on the form nor was any delivered by the court, advising that if the defendant voluntarily absented himself he would be deemed to have waived his constitutional right to testify and to confront the witnesses against him so that the trial could continue without him.

Absent such warning, it was incumbent on the court to determine whether the appellant knew in fact that his trial would go on without him. Neither defense counsel nor the Government developed facts in the District Court on which to rest an adequate consideration of this issue. Although his claim appears dubious, we are constrained to remand this case to afford appellant the opportunity to develop factual support for his contention that his absence was not truly voluntary since it was not a waiver of a "known right." *Johnson v. Zerbst, supra; Cureton v. United States, supra.*

The judgment below is vacated and the case is remanded; if the District Court concludes that appellant knowingly waived his right to be present at trial, it may reinstate the judgment; otherwise, the appellant must be afforded a new trial at which he will have the opportunity (unless he knowingly and voluntarily foregoes it) to appear and recite his story.

Remanded.

TAMM, *Circuit Judge*, dissenting: The real question in this case is not whether the defendant knew that the trial could proceed in his absence but whether he knew that he had a right to be present at his trial and waived it. The majority seems to recognize this when it speaks of a remand to enable the defendant "to develop factual support for his contention that his absence was not truly voluntary *since it was not a waiver of a 'known right.'*" (Majority opinion at 7; emphasis added.) The right that was involved was the right to be present. Thus it follows that if the defendant knew or should have known that he had a right to be present, his voluntary absence (and there is no doubt that his absence was voluntary) was a waiver of that "known right."

While Rule 43 of the Federal Rules of Criminal Procedure, in implementing the

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[2] Rule 43 provides in pertinent part:

"The defendant shall be present at the arraignment, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by these rules. In prosecutions for offenses not punishable by death, the defendant's voluntary absence after the trial has been commenced in his presence shall not prevent continuing the trial to and including the return of the verdict."

[3] Because of our disposition of this case, we do not have to reach appellant's contention that in his absence it was plain error for the trial court to give the jury the instruction permitting an inference of guilt from unexplained possession of recently stolen property.

[4] The continuation of the trial in his absence seriously prejudiced appellant, who desired to explain his possession of the goods which the government witnesses identified as having been removed from the apartment building in which appellant was apprehended. There seems to be no doubt that his intention to testify was serious, since he had previously received the trial judge's assurance that he could do so without being impeached by his criminal record. Since no one testified for the defense, the effect of the instruction on the inference which may be drawn from the unexplained possession of recently stolen property was to assure a guilty verdict.

[5] McPherson testified that he learned one witness had died of an overdose of narcotics in Baltimore. When McPherson stumbled upon the other witness, he displayed his determination not to cooperate by shooting at McPherson and fleeing; McPherson claims to know this witness only by sight and not by name.

[6] The *Johnson v. Zerbst* standard of "intelligent and competent waiver," 304 U.S. 458, was applied in that case to the right to be assisted by counsel. This standard has also been held to govern the waiver of other constitutional rights, *e.g.* the fifth amendment privilege against self-incrimination, *Miranda v. Arizona*, 384 U.S. 436, 444 (1966) ["voluntarily, knowingly and intelligently"], *Escobedo v. Illinois*, 378 U.S. 478, 490, n.14 (1964) ["intelligently and knowingly"], and *Proctor v. United States*, — U.S. App. D.C. —, —, 404 F. 2d 819, 821 (1968) ["intelligently and understandingly"]; the right to trial by jury, *Adams v. United States, ex rel. McCann*, 317 U.S. 269 (1942) ["express, intelligent"] and *Patton v. United States*, 281 U.S. 276, 312 (1930) ["express and intelligent"]; and the combination of rights relinquished through a guilty plea, *Boykin v. Alabama*, 395 U.S. 238, 242 (1969) ["intelligent and voluntary"], and *McCarthy v. United States*, 394 U.S. 459 (1969). In the latter case, the Supreme Court explicitly reaffirmed the standard enunciated by *Johnson v. Zerbst*, applying it to guilty pleas under Rule 11 of the Federal Rules of Criminal Procedure, 394 U.S. at 466. In *McCarthy*, defense counsel informed the District Court that the defendant had been advised of the consequences of a guilty plea; defendant then stated that his plea was not a product of threats or promises and that he understood that such a plea waived his right to jury trial. However, after he had been sentenced, defendant moved to set aside his pleas because the trial judge had not personally addressed him to determine that the plea was voluntary. The Court of Appeals affirmed, but the Supreme Court reversed. The Court held that as the defendant's plea amounted to a waiver of his rights to confrontation and trial by jury, "it cannot be truly voluntary unless the defendant possesses an understanding of the law in relation to the facts" and "if a defendant's guilty plea is not equally voluntary and knowing it has been obtained in violation of due process and is therefore void." 394 U.S. at 466.

[7] Immediately before the trial court ordered the appellant released on bond, the following exchange took place:

"The COURT. Monday morning at 9:45 there will be no excuses whatsoever accepted by this Court for your failure to appear. Do you understand?

"The DEFENDANT. I will be here. I will be here.

"The COURT. Not sickness, anything—there is one thing that can happen to you in the interim, and I am not wishing that upon you. But aside from that, you will be here.

"The DEFENDANT. I will."

mandate of the sixth amendment, requires a defendant to be "present . . . at every stage of the trial," it permits, "[i]n prosecutions for offenses not punishable by death, the defendant's *voluntary* absence after trial has been commenced in his presence . . . ." FED. R.CRIM.P. 43. (Emphasis added.) We have construed this rule as providing "that if a defendant at liberty remains away during his trial the court may proceed provided it is clearly established that his absence is voluntary. He must be aware of the processes taking place, of his right and of his obligation to be present, and he must have no sound reason for remaining away." *Cureton v. United States,* ——— U.S.App.D.C. ——, ——, 396 F.2d 671, 676 (1968). Moreover, the oft-quoted case of *Johnson v. Zerbst,* 304 U.S. 458 (1938), speaks of a "proper" and "intelligent" waiver as being one that "must depend, in each case, upon the particular facts and circumstances surrounding that case, including background, experience, and conduct of the accused." 304 U.S. at 464. Applying these principles to the present case we find that the appellant was the possessor of the "worst" criminal record that the trial judge had seen in his twenty months on the criminal trial bench. (Sent. Tr. at 7–8) This record shows a history of over 20 convictions and 40 arrests within the span of 28 years. (Sent. Tr. at 7.) His "background" and "experience" were, at the very least, broad. Regarding his conduct, we note that after beginning appellant's non-capital trial in his presence (McPherson had been in jail up to and including his first day of trial), the trial judge permitted McPherson's release for the purpose of locating witnesses. Upon the urging of the Government, however, the judge cautioned the appellant that the trial would resume on Monday morning at 9:45:

"The COURT. [T]here will be no excuses whatsoever accepted by this Court for your failure to appear. Do you understand?

"The DEFENDANT. I will be here. I will be here.

"The COURT. Not sickness, anything—there is only one thing that can happen to you in the interim, and I am not wishing that upon you. But aside from that, *you will be here.*

"The DEFENDANT. *I will.*"

The defendant wasn't there on Monday when a bench warrant was issued, nor on Tuesday when the trial resumed over his counsel's objection. In his absence, he was convicted.

At the time of sentence, McPherson attempted to explain his absence. He said that he fell asleep Sunday night and did not awaken until Monday evening at 4:30 (Sent. Tr. at 5). He related that upon arising he did not attempt to contact anyone nor did he attempt to contact the court or his counsel during the ensuing days of his absence when he was "back in the street" looking for witnesses (Sent. Tr. at 6). Upon his testimony,[8] the court found his absence voluntary. I do likewise. *Cureton,* Rule 43 and the Sixth Amendment have been followed.

I would affirm.

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[8] Between the time of conviction and imposition of sentence McPherson was arrested and again brought to jail. While in jail awaiting sentence he wrote a letter to the trial judge apologizing for his poor judgment and explaining, in great detail, the facts surrounding his absence. My reading of that letter convinces me that this appellant had full knowledge of the consequences of his acts and had no intention of returning to the courthouse unless forced. He knew his rights and knew his chances—he chose to take the latter.

TAX REFORM ACT OF 1969—ACTION OF COMMITTEE ON FINANCE

Mr. LONG. Mr. President, on Thursday, October 30, the Committee on Finance considered in executive session a series of miscellaneous amendments and added several of them to the House-passed tax reform bill. Additionally, the committee reconsidered and modified several previously announced decisions—concerning Federal Land Banks, REA cooperatives and health insurance payments.

So that Senators might follow the progress of these executive sessions, I ask unanimous consent that a press release be printed in the RECORD.

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

[A press release from the Committee on Finance, U.S. Senate, Oct. 30, 1969]

TAX REFORM ACT OF 1969

COMMITTEE DECISIONS

The Honorable Russell B. Long (D., La.), Chairman of the Committee on Finance announced today that the Committee on Finance had reached agreement on several additional parts of the House-passed tax reform bill.

A large part of today's executive session was devoted to consideration of amendments offered by Senators Albert Gore (D., Tenn.) and Vance Hartke (D., Ind.) to increase the $600 personal exemption and an alternative approach by Senator Jack Miller (R., Iowa) to provide tax reduction through the use of additional tax credits. The Chairman reported that following a number of record votes on these matters the Committee decided that it would concentrate its attention at tomorrow's meeting on tax cuts worked out through reductions in the tax rate schedules. This is the same approach taken by the House bill.

During the remainder of today's session, the Committee acted on a series of amendments, the substance of which are described in the following paragraphs.

Income of American Employees Abroad.—Under present law, an American citizen who resides in a foreign country for 17 out of 18 consecutive months may exclude from his gross income for Federal tax purposes amounts paid to him from foreign sources up to $20,000 a year. If he is a bona fide resident of a foreign country he may exclude $20,000 a year for the first three years, and thereafter exclude $25,000 a year. At today's meeting, the Committee decided that these $20,000 and $25,000 exclusions should be limited to $6,000. Accordingly, the earned income limitation in existing law in these cases for the future will be limited to $6,000.

Federal Land Banks; Amendment Reconsidered.—The Committee reconsidered the amendment it had added to the bill earlier in its sessions which would have subjected Federal land banks to Federal income tax. (See Committee announcement of October 17, 1969.) Following this reconsideration the Committee decided to omit the provision from its bill.

REA Cooperatives; Amendment Reconsidered.—The Committee also reconsidered the action taken at an earlier session by which rural electrification cooperatives were subjected to tax on income earned on U.S. government bonds purchased with the proceeds of low interest bearing loans which these organizations are authorized to obtain from the Federal government. (See Committee announcement of October 17, 1969.) Following this reconsideration, the Committee decided to omit this provision from its bill.

Recapture of Soil and Water Conservation Expenses.—The Committee agreed to a provision to recapture soil and water conservation expenditures and land clearing expenditures made with respect to farm land. Under the provision, the gain on the sale of land would be treated as ordinary income, rather than as a capital gain, to the extent of the previous specified expenditures with respect to the land. However, there would be no recapture after the land had been held for ten years from the time of the expenditures. For land sold within 10 years there would be a sliding scale of recapture. Where the land was sold prior to the end of the fifth taxable year after the year in which the expenditure was made, there would be a 100 percent recapture; for sales in the sixth through the tenth years the amount would be recaptured as follows:

Year and percent recapture:

6	80
7	60
8	40
9	20
10	0

Medical Insurance; Medicare Amendment Reconsidered.—On October 17, 1969, the Committee approved an amendment to require that payments made under the Medicare and Medicaid programs and payments made by *private* medical insurance carriers must be reported to the Federal tax collector if they aggregate $600 or more during the year. The payments to be reported include those made directly to the health care practitioner who accepts an assignment from his patient and those for which a patient submits bills and is paid for services rendered by the health care practitioner.

At today's meeting the Committee reconsidered this amendment and agreed that the new provisions with respect to private insurance would not be applicable until 1971. Reporting of payments under the Medicare and Medicaid programs, however, will be required beginning in 1970.

Real Estate Depreciation; Binding Contracts.—Under the House bill the use of accelerated depreciation is protected where the taxpayer acquires new real property pursuant to a binding contract in effect on July 25, 1969. No comparable provision protects the purchaser of *used* real estate where the acquisition occurs after July 25, 1969 pursuant to a binding contract in effect prior to that date. The committee added an amendment to allow a purchaser to use 150% of straight line depreciation with respect to *used* real property acquired pursuant to a binding contract in effect on July 25, 1969. Thus, under the Committee's action today, a taxpayer may claim fast appreciation with respect to a building, whether new or used, if he had entered into binding contracts prior to July 25, 1969, for the purchase of the building.

Another amendment was agreed to providing for accelerated depreciation with respect to a building for which the necessary land had been acquired and building plans had been completed before July 25, 1969, but for which the local authorities had failed to grant the necessary approval to permit construction to commence before July 25, 1969, even though application to build had been filed before that date. Under the Committee amendment, accelerated depreciation will be available provided construction commences within one year from the date of filing of the application for the building permit.

Insurance Companies.—The Committee agreed to four amendments with respect to the tax treatment of insurance companies. The first two of these had previously been approved by the Committee and passed by the Senate (H.R. 2767 of the 90th Congress). The substance of the four amendments follows:

Losses.—This amendment provides for loss carryovers where one type of insurance company is converted into another type (for example, where a stock casualty insurance company becomes a mutual company, or a life insurance company, or vice versa). The amount of the loss deduction generally would be limited to the lower of the amount for which the company would qualify before or after the shift.

Spin-off Phase III Tax.—This amendment provides that the so-called "phase three" tax applicable to life insurance companies is not to apply in certain cases merely because a life insurance company distributes to its holding company parent the stock of a subsidiary which it holds. However, in such a case the so-called "phase three" tax is to apply to distributions by the subsidiary, whose stock was distributed, in the same manner as it would apply to distributions by the life insurance company itself.

Contingency Reserves.—This amendment clarifies the deductibility of interest credited to special reserves under contracts of group term life insurance or group health and accident insurance established and maintained for insurance on the lives of retired workers, or for premium stabilization. On approving this legislation the Committee observed that the amendment reiterated its intent, expressed during consideration of the Life Insurance Company Income Tax Act of 1959, that this interest was deductible.

Tax-Free Exchanges of Securities.—This amendment deals with the situation where insurance companies with large holdings of appreciated securities in their investment portfolios have been able to exchange these securities for their own stock without payment of tax on the gain included in the securities surrendered. Under this amendment this sort of exchange in the future will give rise to taxable gain.

Interest on Tax Deficiencies and Refunds.—The Committee agreed to adopt a new provision (recommended by the Internal Revenue Service) which provides a penalty on taxpayers who fail to pay the tax required to be shown on the return at the time they file their return. In general, present law imposes a five percent per month penalty, up to a maximum of 25 percent, in the case of failure to file a return on the date it is due. This provision does not apply if the failure is due to reasonable cause and not due to wilful neglect. Under the Committee provision, this penalty would be expanded to apply if the taxpayer fails to pay the tax due at the same time he files his return. As in the case of the failure to file the return at the time it is due, however, the addition to the tax would not apply if the failure is due to reasonable cause and not due to wilful neglect.

Further, the Committee agreed to increase the penalty for failure to make required deposits of withholding taxes. Under this decision the present penalty of one percent per month (up to a maximum of six percent) would be raised to five percent of the amount due to the Government. This penalty would be added to any deposit of withholding taxes which are not paid at the time they are due. However, it would not apply where the failure to deposit on time is due to reasonable cause and not due to wilful neglect.

Mutual Funds; Unit Investment Trusts.—The Committee approved an amendment to prevent participants in a periodic payment plan to purchase mutual fund shares from being treated as an association taxable as a corporation. However, the Committee included a proviso that its amendment would not apply with respect to an association of persons investing in variable annuity contracts with a life insurance company.

Subpart F Income.—The Committee agreed to an amendment which would make technical corrections in the computation of "subpart F" income, which is taxed to the parent corporation of a foreign subsidiary. Under existing law, foreign base company income (a part of Subpart F Income) does not include any item of income received by a controlled foreign corporation if it is established to the satisfaction of the Secretary or his delegate, with respect to the item, that the creation or organization of the foreign corporation does not have the effect of substantial reduction of income, or similar taxes. The provision adopted by the Committee would clarify this section of existing law by providing that foreign base company income would not include any item of income received by such a foreign controlled corporation if the transaction giving rise to the item of income did not have as one of its significant purposes a substantial reduction of income, or similar taxes.

Private Foundations.—The Committee also agreed to a new provision relating to existing private foundations which would make the divestiture requirement inapplicable if the following conditions are present:

(1) The stock in the company was acquired by the foundation by gift, device or bequest;

(2) The foundation owns ninety-five percent or more of the voting stock of the corporation;

(3) The majority of the governing body of the foundation consists of persons other than the donor or members of his immediate family, taking into account the attribution rules in the bill;

(4) The current business of the corporation is substantially of the same character as the business conducted at the time of the gifts of the stock by the donor;

(5) The corporation does not purchase any stock in another business enterprise which would represent an excess business holding;

(6) The corporation annually distributes to its shareholders 40 percent of its income after taxes; and

(7) The foundation must distribute (or use) for its tax-exempt purpose substantially all of its income.

Mutual Savings Banks; Savings and Loan Associations.—The Committee considered and approved several modifications of the rules relating to investment restrictions applicable, to mutual savings banks and savings and loan associations. Under these modifications the following investments would qualify for purposes of meeting the tests (82 percent of total assets in the case of savings and loan associations; 72 percent of total assets in the case of mutual savings banks) necessary to qualify for the special deduction for additions to bad debt reserves:

(1) Loans secured by redeemable ground rents;

(2) Loans secured by an interest in real property located in an urban renewal area if the urban renewal area is predominately residential; and

(3) Loans made to finance the acquisition or development of land which will become residential property if there is assurance that building will actually occur thereon within a period of three years (with retroactive disqualification of the loan if this does not occur).

The Committee also adopted a provision under which an apartment house with commercial establishments on the first floor would qualify as "residential real property" if 80 percent of the useable space in the building was residential space. It also modified the rules applicable during the transition period over which the 60 percent deduction for bad debts is reduced to 50 percent. (See Committee announcement of October 16, 1969.) During this period it would be permissible if only 50 percent (rather than 60 percent) of the investments of the institution are in qualifying assets. Thereafter, 60 percent of investments must be in qualifying assets just as the House bill would have required. Finally, a one percentage point reduction would be made in the 50 percent deduction for additions to bad debt reserves for each percentage point that qualifying assets fall below the 82 percent test in the case of savings and loan associations. In the case of mutual savings banks, a reduction of 1½ percentage points in the bad debt deduction would be required for every percentage point that qualifying assets fall below the 72 percent test.

Supervisory Mergers of Savings and Loan Associations.—The Committee agreed to an amendment, suggested by the Federal Home Loan Bank Board, clarifying the treatment of bad debt reserves of institutions participating in a tax-free merger under the supervision of the Federal Home Loan Bank Board. Under the amendment the amount in the bad debt reserves would not be restored to income at the time of the merger. The Committee was advised that its amendment reflected the law as the Internal Revenue Service had interpreted it, and in this respect it is merely declaratory of the law.

Charitable Remainder Trusts.—The Committee decided to require a charitable remainder annuity trust or unitrust to distribute at least its current income (other than capital gains) to the income beneficiary, and to provide that in determining the amount of the charitable contribution deduction allowed in the case of a gift of remainder interest in trust, a 5 percent payout to the income beneficiary is to be assumed for valuation purposes if the 5 percent is higher than the payout otherwise determined under the annuity or unitrust rules. This rule strikes a balance between the harshness of imposing an inflexible 5 percent payout requirement which might unduly restrict the trust and the possibility of circumventing the restrictions contained in the private foundation provisions of the bill by providing for a very low income payout. The Committee action was made effective with respect to trusts created after October 9, 1969.

Limitation on Deduction of Interest.—The Committee adopted the Treasury recommendation that the limitation on the interest deduction in the case of individual taxpayers contained in the House bill be deleted pending further study. Generally, this provision of the House bill would have disallowed the deduction of interest on indebtedness incurred to purchase investment assets to the extent the interest exceeded the taxpayer's net investment income and the amount of his long-term capital gains by more than $25,000.

Corporate Mergers—Disallowance of Interest Deduction in Certain Cases.—The Committee generally adopted those provisions of the House bill dealing with the disallowance of the interest deduction on debt issued in connection with corporate mergers. However, it did make several important modifications in this provision. Under the House bill, the interest deduction would be denied for interest on bonds or debentures issued by a corporation to acquire stock in another corporation or to acquire at least two-thirds of the assets of another corporation. This rule, however, only would apply to bonds or debentures which (1) are subordinated to the corporation's trade creditors, (2) are convertible into stock, and (3) are issued by a corporation with a ratio of debt to equity which is greater than two to one, or with an annual interest expense on its indebtedness which is not covered at least three times over by its projected earnings.

First, the Committee adopted a provision authorizing the Internal Revenue Service to issue regulations providing tests for distinguishing generally whether bonds or debentures are in fact debt or equity. Since there is a great variety of situations in which this question can arise, the Committee believed it was appropriate to provide this authority to the Internal Revenue Service so it could

develop rules to take account of the various characteristics of these situations.

The Committee also agreed that it would be appropriate to broaden the subordination test of the House bill so that it applies to obligations which by their terms are subordinated in right of payment to any substantial amount of the corporation's indebtedness. This action would provide for the case where although the obligation is not subordinated to trade creditors it is subordinated to substantial amounts of preexisting debt.

The Committee also decided that the debt equity and interest coverage tests of the House bill should be revised so as to allow an issuing corporation to have a debt equity ratio of four to one, and to only require the annual interest expense of the corporation to be covered at least two times over by the corporation's projected earnings. The Committee believes these tests more appropriately reflect a reasonable capital structure for a corporation. The Committee further decided to clarify the application of these tests in the case of corporations engaged in the loan business by providing that the amount of the corporation's indebtedness should be reduced by amounts owed to it and the amount of the corporation's annual interest expense should be reduced by its annual interest income.

The Committee also agreed that where the interest deduction was disallowed because the debt equity test was not met or because the earnings of the corporation were not at least two times more than the annual interest expense, the disallowance of the interest deduction would be discontinued after the debt equity test and the earnings test had been met for a period of at least three years. The House bill provides for an exception from the disallowance rule of up to five million dollars a year of interest on obligations which meet the prescribed test. This exemption is reduced by interest on obligations which do not meet one of the three specific tests in the bill. The Committee agreed that the reduction should be limited to interest on obligations issued after December 31, 1967.

In the case of corporate acquisitions the provisions of the House bill only apply where the acquiring corporation obtains at least two-thirds of the assets of another corporation. The Committee agreed to a Treasury recommendation that the two-thirds test should be applied to the operating assets (excluding cash) of the acquired company rather than to the total assets. This would prevent the two-thirds test from being avoided where the acquired company has a large amount of its assets in cash and non-operating properties.

The Committee also decided to make this provision of the House bill inapplicable in the case of an acquisition of a corporation's stock where the total interest of the acquiring corporation in the other corporation does not exceed five percent. This would eliminate deminimus stock acquisitions from the scope of this provision.

The Committee also agreed that this provision of the House bill should be applicable to indebtedness incurred after October 9, 1969. (The date used in the House bill is May 27, 1969). The Committee also agreed that this provision would not apply to the acquisition of additional stock of a corporation where the taxpayer acquired at least 50 percent of the stock on or before October 9, 1969. This would enable a corporation which had achieved practical control of another corporation by this date to acquire the additional stock necessary to give it control for tax purposes. The Committee also agreed to make this provision of the bill inapplicable to the acquisition of stock or assets of a corporation pursuant to a binding contract entered into before October 9, 1969.

Corporate Mergers—Limitation on Installment Sales Provision.—The Committee agreed to the provision of the House bill which provides that bonds with interest coupons attached, in registered form, or which are readily tradeable are, in effect, to be considered payments in the year of sale for purposes of the rule which denies the installment method where more than 30 percent of the sale's price is received in that year. In this connection, however, the Committee agreed to exclude from this treatment bonds or debentures in registered form which are non-transferable, except by operation of law.

The Committee also accepted the Treasury recommendation that the periodic payment requirement of the House bill be deleted, but that the installment method not be available where an obligation is payable on demand. Under the periodic payment requirement of the House bill the use of the installment method would be denied unless the payment of the loan principal, or the payment of the loan principal and interest together, were spread relatively evenly over the installment period.

The Committee also agreed to make these new rules regarding the installment method effective with respect to sales made after October 9, 1969 (the date used in the House bill is May 27, 1969). The Committee further agreed to make the new rules inapplicable in the case of installment sales which are made pursuant to a binding contract entered into before October 9, 1969.

Corporate Mergers—Original Issue Discount.—The Committee accepted with minor modifications the provision of the House bill which provides that in the case of bonds issued at a discount the bondholder and the issuing corporation are to be treated consistently with respect to the original issue discount. Generally, under this provision of the bill, a bondholder is required to include original issue discount in income ratably over the life of the bond. This rule applies in the case of the original bondholder as well as to subsequent bondholders.

The Committee adopted a provision making the ratable inclusion of original issue discount requirement inapplicable in the case of life insurance companies which already accrue discount on a basis which produces essentially the same result as a ratable accrual. This will eliminate the necessity of life insurance companies shifting from one method of accruing original issue discount which has been regularly employed to another method (that prescribed by the bill) where the end result is essentially similar.

The Committee agreed that this provision of the House bill should be applicable to debt obligations issued after October 9, 1969 (the date used in the House bill is May 27, 1969). The Committee also agreed that this provision of the bill should not apply to debt obligations which are issued pursuant to a binding commitment entered into prior to October 9, 1969.

Corporate Mergers—Convertible Indebtedness Repurchase Premiums.—The Committee agreed to the provision of the House bill dealing with the deductability of convertible indebtedness repurchase premiums with a minor modification. This provision of the House bill provides that a corporation which repurchases its convertible indebtedness at a premium may deduct only that part of the premium which represents a cost of borrowing, rather than being attributable to the conversion feature.

The Committee agreed to make this provision applicable to repurchases of convertible indebtedness after October 9, 1969 (the date used in the House bill is April 22, 1969).

TAX REFORM ACT OF 1969—ACTION OF COMMITTEE ON FINANCE

Mr. LONG. Mr. President, on Friday, October 31, the Committee on Finance, in its last day of executive sessions on the Tax Reform Act of 1969, completed its work and ordered the bill reported to the Senate. The committee announced that the tax reductions and increases which the bill provides will culminate in 1972 and will involve approximately $16 billion in revenue. The committee adopted various other recommendations, added amendments, and modified certain previously announced decisions.

So that Senators might be aware of the committee's final action on the tax reform act, I ask unanimous consent that a press release be printed in the RECORD.

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

[A press release from the Committee on Finance, U.S. Senate, Oct. 31, 1969]

TAX REFORM ACT OF 1969

REPORTED TO SENATE

The Honorable Russell B. Long (D. La.), Chairman of the Committee on Finance, announced today that the Committee on Finance had finished its work on the Tax Reform Act of 1969 and had ordered the bill reported to the Senate. He reported that the motion to report was approved by a voice vote with few Senators dissenting. He indicated this was the third most significant tax bill in the nation's history ranking behind only the original income tax act of 1913 and the massive tax cuts in the Revenue Act of 1964. He expressed hope that the technical work necessary to prepare the bill for Senate consideration could be finished within three weeks so that the bill could be acted on promptly by the Senate.

$9 Billion Tax Cuts.—Chairman Long reported that in large measure the $9 billion of individual income tax reductions recommended by the House of Representatives had been approved by the Committee on Finance. The most significant difference involved a transfer from 1971 to 1972 of a portion of the tax reductions the House bill would have provided in the earlier year. He indicated that this was done in order to prevent the bill from having an inflationary impact on the economy in 1971.

Planned Tax Reduction.—Senator Long further indicated that the Senate bill reflected a program of planned tax reduction. He noted that on January 1, 1970, the 10 percent surtax would be reduced to 5 percent and that on July 1, 1970, it would be eliminated entirely. He also indicated that the standard deduction would be increased in 1970 and that the low income allowance—designed to remove 5 million tax returns from the tax rolls—would also become effective in 1970. The combination of these features, he said would involve tax reductions totaling $10.8 billion.

In 1971 he reported the first step in the individual tax rate reductions would take place, and the second step in the increase of the standard deduction would occur. In addition, the so-called phase-out of the low income allowance would itself phase-out over a 2-year period. The combination of these changes plus the final elimination of the surtax and the planned reduction in auto and telephone excise tax rates, would result in further tax reductions for 1971 of $8.1 billion.

In 1972, the full tax rate reductions would become effective, and the final step in the

increase of the standard deduction would be reached. In addition the "phase-out" of the low income allowance would be fully eliminated in 1972. Thus, in 1972 these planned tax reductions and another excise tax reduction would amount to a further $4.4 billion.

Revenue Raising Tax Reform.—In addition to these tax reductions, the Chairman emphasized that tax raising reform features of the bill would hike taxes by $6.5 billion from those who in the past have enjoyed substantial tax preferences. He observed that no industry in America would be left untouched by the bill and that the real estate industry, the oil and gas industry, financial institutions and private foundations had been singled out for particularly stringent treatment.

The Chairman stated his belief that at no time in his experience had the public interest been represented so well in a major tax bill. He praised the members of the Committee who had worked so long and so hard to reach agreement on a tax bill as complicated as the Tax Reform Act of 1969. He expressed confidence that if the full Senate would approach its work on the bill with the same diligence and dedication that the members of the Committee on Finance had displayed, the tax reductions provided by the bill could become the law of the land by Christmas.

A complete description of the day's decisions, with respect to other matter, follows:

Cement Mixers.—The Committee approved an amendment (identical to an amendment which passed the Senate in 1968 too late for the House to act before adjournment) to clarify the excise tax status of cement mixers. Under the Committee amendment, cement mixers would not be subject to the 10 percent excise tax generally applicable to automobile trucks, although the tax would continue to apply to the truck in which the cement mixer is mounted. This amendment reverses a 1967 ruling in which the Internal Revenue Service administratively reversed its long-standing position and announced that cement mixers in the future would be subject to tax.

Vacation Pay.—The Committee also adopted an amendment extending for an additional two years, for taxable years ending before January 1, 1971, the period within which vacation pay may be accrued by employers under rules in effect prior to 1960. The Committee was advised that the Treasury Department would be prepared to recommend permanent legislation within this two-year period to deal with the matter of vacation pay.

Filing of Income Tax Returns and Withholding.—The Committee adopted a number of provisions (all suggested by the Treasury Department) which will relieve many low income taxpayers from filing a tax return, permit more flexibility in the withholding system, and enable the Treasury to increase its assistance to taxpayers by computing their tax for them.

1. The first of these increases the income level at which filing a tax return is required from the present $600 ($1,200 for those age 65) to the new levels of nontaxable income provided by the low income allowance which the Committee also adopted. The filing requirement would be increased to $1,700 for single persons, $2,300 if married or age 65 or over, $2,900 if married and one spouse is age 65 or over, and $3,500 if married and both spouses are age 65 or over. The filing level would remain at $600 for a married couple filing separate returns.

2. The Committee adopted another recommendation that the problem of overwithholding for those with no tax liability (particularly those who work part-time such as students who work during the summer) be solved by eliminating withholding for such persons. This would be accomplished by an employee certifying to an employer that he estimates that he will have no Federal income tax liability for the current year and, in fact, had no income tax liability for the preceding year. This could relieve as many as 10 million persons from overwithholding.

3. The next recommendation was that the Internal Revenue Service be permitted to compute tax liability for taxpayers if they request, regardless of the amount or source of their income, their marital status, the type of tax credits claimed, or whether they itemized their deductions or take the standard deduction. Under present law, only taxpayers who have income less than $5,000, less than $100 of nonwage income, who use the optional tax table an do not use the retirement income credit, may elect to have their tax computed for them by the Internal Revenue Service.

4. The Committee also approved an amendment that the Internal Revenue Service be permitted to provide employers more flexibility in devising withholding systems which fit their particular needs and also match withholding and tax liability. In addition, employers will be permitted to annualize wage payments for withholding purposes to reduce overwithholding where wage payments are not made throughout the entire year as in the case, for example, of professional athletes. Under present law, withholding on wage payments is computed as if the same amount of wages is to be received each payroll period throughout the year.

Under the Treasury proposal, for example, if an employee is to receive wages for only 6 months of the year, his employer could multiply the amount of wages paid in the first month by 6, determine the withholding due on this amount as if it were the total wages for the year, and withhold one-sixth of the annual withholding in each of the six monthly payroll periods.

5. The next recommendation was that the Internal Revenue Service be permitted to prescribe rules for voluntary income tax withholding on payments for services which are not "wages" as defined in the law. *Tax would be withheld on these payments only when the employee requests such withholding.* This provision would reduce the amount of final tax payment (which may be burdensome) for retired persons (or their survivors) receiving pensions, farm and domestic workers, and others who receive payments not now subject to withholding.

6. The Committee also adopted a Treasury recommendation that supplemental unemployment benefits (SUB payments) be subject to withholding.

7. The Internal Revenue Service was authorizing to permit rounding of withholding amounts to the nearest whole dollar. This will aid employers, particularly those whose withholding systems are computerized.

8. Employees who have itemized deductions in excess of the level of deductions on which the withholding tables are based may claim additional withholding allowances under existing law to prevent overwithholding in their cases. However, existing law requires that estimated itemized deductions for the year be no more than the taxpayer's itemized deductions for the preceding year. This effectively prevents the provision from operating for the first year in which the taxpayer has excess itemized deductions even though their existence is clear and need not be verified by similar experience in a prior year. The Committee adopted a recommendation that the prior year requirement be eliminated where the excess itemized deductions are substantiated by court order (such as alimony) or by other evidence which verifies their existence. Also, if the excess itemized deductions would result in a fractional additional withholding allowance, the Committee action would permit a full additional withholding allowance on account of such fractional amount, rather than none as under existing law.

Reimbursement of Certain Casualty Loss Expenditures.—The Committee approved an amendment (the substance of Amendment No. 242, Senator Jack Miller (R., Iowa)) which provides for the exclusion from gross income of amounts received under insurance contracts for increased living expenses necessitated by damage to or destruction of an individual's residence. However under this amendment the taxpayer may exclude only actual extra living expenses resulting from the fire or other casualty which are over and above normal living expenses incurred by the taxpayer and members of his household.

Tax Court.—On motion of the Chairman the Committee added an amendment to the bill to create special procedures for the decision of small tax cases brought by taxpayers to the Tax Court and to change the status of the Tax Court to a legislative court under Article I of the Constitution. The amendment provides that where the taxes at issue are less than $1,000 for any one taxable year the taxpayer may request the court to review his case under a simplified procedure. Under this procedure the decisions will not be treated as precedents for deciding later cases. This provision, which is similar to proposals that had been introduced in both Houses of Congress in recent years, is expected to permit more rapid handling of many small tax cases. The amendment also changes the term of office of a tax court judge to fifteen years from the day he takes office. (Under present law it is twelve years, or the remainder of the term of the vacancy.) Modifications are provided in Tax Court retirement provisions, bringing them more in line with provisions for district court judges. Contempt and subpoena powers are made essentially the same as those of district court judges. The small claims provisions would take effect a year from the date of enactment; other provisions would generally apply as soon as the bill is enacted.

Arbitrage Bonds.—The Committee agreed to provide that State and local government bonds would not be treated as arbitrage bonds, which would cause the interest on the bonds to be taxable, where a portion of the proceeds of the bonds were placed in a reserve fund or a replacement fund. These are funds which are maintained to provide protection for bondholders and the proceeds of the funds generally are invested in Government or corporate securities. For this rule to be applicable, no more than fifteen percent of the proceeds of a bond issue could be placed in such a reserve or replacement fund. In addition, this treatment would not be available if the purpose of placing the proceeds in the fund was to obtain the benefits of arbitraging rather than to protect the bondholders. The Committee had previously dealt with the treatment of arbitrage bonds. (See Committee announcement of October 9, 1969).

Private Foundations.—The Committee modified in some respects the provisions it had previously dealt with regarding requirements that private foundations dispose of excess business holdings. (See Committee announcement of October 28, 1969). In one case brought to the Committee's attention, it was decided to permit a foundation to receive certain securities which are now subject to both a will and a trust without violating the excess business holdings requirements.

In another case brought to the Committee's attention it was decided to require a foundation to dispose of its excess holdings in stages—10 percent of the excess holdings within two years, 25 percent within five years, 50 percent in 10 years, and the remainder by the 15th year—if those excess holdings are in a corporation which owns more than 10 percent of the land area of any major political subdivision in the United

States (a county or city with a population of more than 100,000).

Investment Tax Credit; Transition Rules.—The Committee agreed to two additional transitional rules under which the investment credit will continue to be available in certain situations. The Committee previously had approved a transition rule which continues the availability of the credit in the case of property specified in a binding lease in effect on April 18, 1969 which obligates the lessor or lessee to construct under the terms of the lease. At today's meeting this rule was made applicable where the property is specified in a document filed with a local government authority prior to April 18, 1969. Thus, the investment credit will continue to be available for property which is specified in this manner and which is constructed pursuant to a pre-April 19, 1969, binding lease.

The Committee also agreed to continue the availability of the investment credit for property which would otherwise qualify for this treatment under the plant facility rule previously adopted by the Committee, except for the fact that construction had not commenced at the site of the plant facility. Generally, under this rule the credit will not be available unless the site for the plant facility was acquired prior to April 9, 1969, substantial expenditures were made prior to that date to prepare the site for its intended use (including the acquisition of access and transportation facilities related to the facility), and the taxpayer commences construction of the facility within one year from the time the site for the facility was acquired.

Capital Loss Carrybacks for Corporations.—Under present law, corporations may carry capital losses forward for five taxable years. The Committee decided to allow corporations to carry back their capital losses three years (in addition to the 5-year carryover), conforming the treatment of net operating loss carrybacks and carryovers under present law.

Accumulated Earnings Tax.—In its decisions regarding private foundations, the Committee had previously provided an exception from (1) the accumulated earnings tax (Internal Revenue Code section 531), and (2) the dividend rules (Internal Revenue Code section 303) in the case of redemptions of stock (owned by the foundation) by a closely-held corporation to comply with the new excess business holdings rules. (See Committee announcement of October 28, 1969.) An exception from the *dividend* rules appears in present law in the case of redemptions from an estate to pay death taxes. The Committee amended the bill to provide a similar exception from the *accumulated earnings tax* when a closely-held corporation redeems stock from an estate to pay death taxes.

Nonexempt Membership Organizations; Securities and Commodities Exchanges.—The Committee previously adopted the provision in the House bill which would deny the deduction for expenses incurred in supplying services, facilities or goods to members of a taxable membership organization to the extent that such expenses were not related to income received from the members. In addition to the decisions previously made (see Committee announcement of October 28, 1969), the Committee adopted an amendment making this provision inapplicable to securities and commodities exchanges.

STATEMENT OF PURPOSE OF CONSTRUCTION INDUSTRY FOUNDATION

Mr. SCOTT. Mr. President, the Construction Industry Foundation, headquartered in Philadelphia, Pa., is the first organization ever to represent the entire construction industry. Its purpose is to find fair solutions to the industry's pressing internal problems and to correct abuses and inequities for the benefit of the industry and the public alike.

Mr. President, I ask unanimous consent to place in the RECORD a statement of purpose of the Construction Industry Foundation.

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

CONSTRUCTION INDUSTRY FOUNDATION

The Construction Industry Foundation is the first organization ever to represent the entire construction industry. Its purpose is to find fair solutions to the industry's pressing internal problems and to correct abuses and inequities for the benefit of the industry and the public alike. The Foundation was incorporated May 2, 1969, and is qualified as a non-profit, tax-exempt organization.

Membership in the Construction Industry Foundation is open to architects, engineers, building product manufacturers, suppliers, general contractors, specialty contractors, home builders, labor unions, bank loan officers, building owners and managers, credit managers, insurance companies, surety bondsmen, government officials, and others, *everybody in construction.* Individuals, partnerships, associations, and corporations are eligible to join.

Representation of all of the many distinct components of the industry is important. As the management, legal, and financial problems that the Foundation will consider affect the entire industry, every segment must have the opportunity to participate in seeking fair solutions.

The purposes of the Foundation are:

1. To be a central forum for the mutual review of all problems within the construction industry, and to clarify and improve relationships among all elements of the industry.
2. To conduct research programs.
3. To conduct educational programs.
4. To recommend specific improvements in the documents, laws, and customs applicable to the construction industry.
5. To assemble legal precedents and similar information as a guide to the industry and the public.
6. To educate the professional societies, trade associations, and others representing and serving the public and the industry in developing fair and reasonable agreements and documents.
7. To develop model laws affecting the construction industry. However, the Foundation is not a lobbying organization; it is prohibited by its Articles of Incorporation from attempting to influence legislation.

The Foundation's method of operation is as follows:

1. Each problem accepted for action will be assigned to a project committee composed of Foundation members particularly concerned with the subject.
2. The committee will engage authorities and scholars—experts in a particular field—to analyze the problem and recommend solutions to it.
3. After the consultants have presented their recommendations, there will be a period of dialogue between the consultants and the committee. The solutions judged most promising will be presented to Foundation members for their consideration. At this stage, there will be thorough discussion and negotiation with interested societies and associations.
4. The Construction Industry Foundation will accept a solution.
5. The solution will be implemented by the endorsement and positive action of Foundation members and, through their influence, their affiliates and their trade associations.

The Foundation will seek to solve problems in such areas as: (1) financial practices and the flow of funds within the construction industry; (2) bidding; (3) the quality of plans and specifications; (4) standards for product performance and guarantees; (5) legal liability of all industry groups; (6) guidelines to performance of mechanical systems and other components of a structure; (7) contract language; (8) cost estimates and quantity surveys; (9) professional responsibilities of architects and engineers, and (10) survey and soil exploration hazards.

IS THERE A CONFLICT BETWEEN DOMESTIC LAW AND THE TREATY ON POLITICAL RIGHTS OF WOMEN?

Mr. PROXMIRE. Mr. President, one of the most persistent objections to ratification of the three human rights conventions covering genocide, forced labor, and the political rights of women has been that they would interfere with the force of domestic law. This objection has been most frequently advanced concerning ratification of the treaty guaranteeing political rights for women. The question must be asked, however, Is there any validity to this charge?

Mr. Eberhard P. Deutsch, chairman of the Standing Committee on Peace and Law through the United Nations of the American Bar Association, dealt with this question in hearings before the Senate Foreign Relations Committee in September 1967. In response to a question asked by Senater DODD regarding any citations of Federal or State law that would be overriden by the United States ratifying the treaty, Mr. Deutsch stated: "None whatever, sir."

When asked by Senator DODD why he opposed ratification of the treaty if there is no possibility that the treaty would conflict with domestic law, Mr. Deutsch replied that his opposition was based on the principle that the treaty deals with the domestic affairs of the United States.

Mr. President, as we have proved many times, a treaty cannot interfere with the force of domestic law. A treaty cannot override the Constitution. A treaty cannot override the power of the state to make its domestic laws.

Mr. President, it seems to me to be a contradiction to oppose a treaty on the basis that it "deals with domestic law," after admitting that it cannot possibly interfere with domestic law. Just to say it "deals with domestic law," is not a concrete objection. As long as it does not interfere with domestic law, or preclude changes in domestic law, why should it be considered a threat? I fail to see any rational basis for this argument. To claim a threat once you have recognized that no threat exists does not make sense to me.

Mr. President, it is precisely groundless charges such as this that have delayed ratification of the three human rights conventions. We can no longer accept such arguments. The time has come to look at the facts, to look at the true impact these treaties would have. These treaties cannot interfere with do-

mestic law. They can only expand human rights, not interfere with them. The time for action on them is now. Further delay can no longer be justified.

REGULATION OF ENERGY-PRODUCING RESOURCES

Mr. HATFIELD. Mr. President, the National Association of Regulatory Utility Commissioners—NARUC—recently held its 81st annual convention in Denver, Colo. The October 6 to 9 series of talks and panel discussions were the year's largest gathering of Federal and State utility and transportation regulatory officials with nearly 1,700 persons registered for the sessions.

Among the many subjects discussed was one of vital interest to the State of Oregon. This was the growing shortage of natural gas. Oregon is not a natural-gas-producing State. It is a large consumer and must rely on Southwestern States and western Canada for its supplies.

Natural gas is both a source of heat and a raw material for industry. A lack of adequate supplies at prices industry can pay and remain competitive will curtail economic development.

The fact is that Oregon has already faced disturbing shortages. Full or partial curtailment of supplies occurred on a total of 73 days in calendar 1968. During 39 days of this period the pipeline company was unable to supply so-called interruptible gas, the type of service upon which industry depends. Also, during 4 days within this period no more than firm gas—the basic service used for home heating and cooking—was available.

I should add that Orgeon, unlike many States, does not use natural gas to generate electric power. Thus, our experience in 1968 has an even more ominous aspect about it.

The NARUC convention afforded Mr. Sam R. Haley, Oregon's public utility commissioner, an opportunity, as a panelist, to discuss the growing concern felt in my State, and I am sure in others, over this supply situation. Mr. Haley points out that problem is national and international in scope and will not yield to present attempts to solve it on a case-by-case basis. He makes it clear that a reexamination of the Nation's energy resource policies is long overdue.

Mr. Haley feels that a prerequisite for stable energy supplies is a long range plan for maximum utilization of the energy resources of the United States and Canada. The alternative, he believes, is instability and uneconomic use of resources which will adversely affect consumer and supplier alike. His address was a timely and thoughtful contribution on a matter of national importance. There being no objection, I ask unanimous consent that the address be printed in the RECORD.

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

THE GROWING CONCERN ABOUT GAS SUPPLY: A STATE'S VIEW

(Remarks of Sam R. Haley, Oregon Public Utility Commissioner)

How often, as a state regulator, have you been advised—even admonished: "Don't worry about it, it's a Federal problem," or "It's an industry problem and it will or should be taken care of without regulation."? And how often have you wished you could better evaluate such advice and be more confidant that your acceptance or rejection thereof was in the public interest? Can local interests, including those represented by state regulators, secure or foster some better way of *really* knowing what's what in the energy supply situation than by going it alone on a case-by-case basis? Can the states play, or have the opportunity to play, a more meaningful, effective role in the development of long-range solutions or plans and their application, or at least be advised and kept aware of developments on a systematic basis so that we could better evaluate our positions and coordinate our planning within our areas of responsibility?

As a state regulator I'm concerned about gas supply because I believe I have a responsibility; but I'm not alone and I'm certainly not exclusively responsible. How is the scope of my responsibility defined and how do I coordinate with others who also have a responsibility?

The foregoing questions, and others, are not, so far as Oregon is concerned, hypothetical or academic questions. Our agency is now participating in eight Federal Power Commission or Federal court cases involving, in one was or another, natural gas. We believe the results in these cases could beneficially or adversely affect Oregonians. Oregon is not a gas-producing state and, at present, we are supplied gas from the southwestern portion of the United States and from western Canada.

During calendar year 1968 partial or full curtailment occurred on a total of 73 days; there were 39 days during this period when the pipeline company was unable to supply any interruptible gas and four days within the period when no more than firm gas was available.

Generally speaking we face the following recurring issues at the state commission level:

(1) Whether, or to what extent, we should participate in Federal regulatory and court cases involving producers and pipeline supply costs and prices.

(2) Whether to participate in cases involving alternate supply arrangements for a pipeline.

(3) To what extent do we participate in Federal regulatory and court cases directly involving the locally regulated distributor (such as distributor-pipeline supply relationships)?

(4) How will supply costs be reflected in distributor rates and operations?

Finding answers to these recurring questions (even if one at the state level had all the current and reliable, relevant data at his fingertips), is a difficult and complex exercise. This exercise is even more complex when one also considers our relationships with Canadian suppliers and Canadian regulators.

On the one hand, we concern ourselves with the nature of the demands or markets for natural gas, be they residential, commercial or industrial, and whether the price is elastic or inelastic. Also, we consider the availability of alternative energy sources, such as electric, oil, coal or propane. On the other hand, we attempt to understand the natural gas supply situation. This includes current and long-range requirements, not only of the distributors and the pipeline companies, but of the producers too. Related items of importance in the supply picture are supply supplements (such as underground storage, LNG storage, LNG via tanker and LPG) and supply alternates (such as gas from oil shales, oil sands or coal). The location of the supply, its transportation by tanker or pipeline and the effects of new technology are also important factors to consider. In the case of Oregon, if not many other states of the United States, the existence of Canadian and Alaskan supply is particularly significant.

To state that we are concerned about gas supply is to state the obvious. Manifestations of our individual state's concern are strewn through the reports of cases before the courts and the regulatory bodies, both American and Canadian. It's now time, however, that we act in a more concerted and coordinated fashion.

I'm encouraged that the National Association of Regulatory Utility Commissioners (NARUC) has invited my experienced and knowledgeable fellow panelists to discuss the subject of gas supply with us today. I await eagerly their remarks. Preceding today's presentation and, perhaps, influencing the designation of our subject as a part of this annual program, several other encouraging events have transpired:

First, the Western Conference of Public Service Commissions, at its 1969 annual meeting in May, adopted a resolution treating the subject of gas supply; and, then, following this action by the Western Conference, the NARUC Executive Committee, at its July 1969 meeting, adopted a similar resolution proposing an international agreement between the United States and Canada regarding energy supply. This resolution recognizes that an adequate supply of natural gas and other forms of energy is essential to the welfare of the people of the United States and of Canada; that the public interest requires dependable sources of energy to be assured far in advance of actual need; and that dependable, long-range markets are necessary to the economic planning and operation of energy supply and transmission facilities. Further, the NARUC Executive Committee urged the consummation of an international agreement with Canada: (a) that will establish mutually acceptable general guidelines, including economic conservation and other basic policies, under which imports and exports of natural gas and other forms of energy may be committed on a fixed and continuing basis; (b) that will establish an international agency which would include representatives of affected state regulatory commissions and the Federal Power Commission to administer such agreement and approve or reject specific applications for the import or export of natural gas and other forms of energy between the two nations; and (c) that will resolve such related energy matters as may be deemed in the public interest of both nations.

Prior to the adoption of the resolution just referred to, NARUC, to facilitate the interchange of opinions and ideas of common interest between the regulatory agencies of neighboring countries and those within the United States, had expanded the eligibility for associate membership in NARUC to include such agencies.

On other fronts, significant actions, which I believe to be steps in the right direction, were underway. In July of this year, when neither the National Energy Board of Canada nor the Federal Power Commission had under consideration a case affecting the interests of the other country, members of these agencies, including Commissioner O'Connor, met together. Perhaps he intends to comment on this meeting. It is reported that they canvassed in a general way a number of subjects of broad general interest to them, including the prospects for gas supply in North America. I'm informed that respective procedures of the two agencies in regard to hearings affecting the interests of both countries were discussed in relation to the laws presently governing the conduct of each agency. Such meetings have received fresh impetus from the recent conversations between the President and the Prime Minister of Canada emphasizing the common interest of our two countries in the expansion of cross-border movement of energy.

In August of this year, in response to the invitation of the Cabinet Task Force on Oil Import Control, Canadian authorities sub-

mitted comments including, among others, statements that each country relies on the other for energy supplies; and that large quantities of electric power generated in one country are dependent on water stored in the other country, as in the cases of the Columbia and St. Lawrence Rivers. We know that electric power lines cross back and forth across the border in numerous places and that increasing numbers of both Candian and United States utilities are members of fully interconnected power systems in which energy circulates across the international boundary as required.

In 1968, the United States exported 4.1 billion kwh of electricity to Canada and imported 3.7 billion kwh. A dozen natural gas pipe lines cross the border. Nine of these delivered 1,656 MMcf/d of Canadian gas to United States markets in 1968, while three of them delivered 223 MMcf/d of United States gas to Canada. Several major oil pipe lines cross the border. In 1968, the United States imported some 500,000 b/d of Canadian oil while Canada affords an important market for high-unit-value-oil-product exports from the United States.

The Canadian statement to the Task Force also noted that the international oil and gas pipe lines and power lines are not only arteries of trade of benefit to the whole national economy but also are essential to the energy supply of the localities served in the respective countries. It appears, they stated, that progressively the availability of new supplies of oil and gas on the North American Continent will be in Alaska and Canada. I join them in their opinion that the interest of both of our countries may well rest in developing mutually acceptable policies designed to facilitate arrangements for the most economic and secure development of these resources, including provision for an appropriate reserve capability for emergency purposes relating to transportation as well as to production capacity.

As you know, the Cabinet Task Force on Oil Import Control has been directed by President Nixon to conduct a comprehensive review of the question of oil import controls. The Task Force will soon recommend policy guidelines. Its inquiry is being conducted on the basis of an open record of submissions by interested parties, which submissions can be examined and commented on by others. Parenthetically, I might say, the Oregon Public Utility Commissioner has submitted for consideration a suggested approach for providing a stimulus to domestic production of and exploration for both oil and gas.

In December of 1968, before any contact with the Task Force, in letters to members of Oregon's Congressional delegation, I described the problem of gas supply in this fashion:

"Basically, the problem is a lack of coordinated approaches to natural gas importations from Canada to the Northwest. Such imports have in the past been dealt with on a case-to-case basis. Thus, no coordinated, orderly policy has been developed.

"The two nations have differing national interests in relation to pricing, resource development and market potential. Within each country are differing state and provincial interests. And finally, business and economic interests in both nations differ, between and among themselves. * * *

"Contrasted to this situation within the natural gas industry, Canadian and United States representatives worked out a detailed, comprehensive plan for development of Columbia River resources.

"As Mr. Jones (President, Cascade Natural Gas Corporation) points out (in a speech delivered in Richland, Washington, November 14, 1968): The Columbia River Treaty took 11 years to negotiate and several hundred millions of dollars to implement—and yet, the total energy which will be exported to the U.S. as a result is only one-third the total energy in the form of natural gas now delivered to the U.S. from Canada. * * *"

It becomes more obvious the further one pursues the subject that a concern about gas supply extends beyond local or even Federal boundaries and also becomes a matter of international concern. Furthermore, the subject cannot be limited to gas supply alone. Let us together develop our policy recommendations for the long pull as we separately meet today's particular problems on a case-by-case, ad hoc basis. While I'm not personally certain that the mechanism contemplated by the NARUC resolutions earlier referred to is the best vehicle for the development *or* the administration of a sound energy policy, I do support the objective of these resolutions. At least, their promulgation will crystallize our thinking and precipitate some action that, I trust, will be constructive.

ANNOUNCEMENT OF COMMITTEE OF CONCERN TO PROHIBIT MINORITY PERSECUTION IN THE MIDDLE EAST

Mr. TYDINGS. Mr. President, I wish to bring to the Senate's attention the recent formation of a committee of concern in this country to direct international attention to the tragic series of political trials and executions of Jews, Christians, and other minority groups in Iraq. Presided over by Gen. Lucius D. Clay, former commander of U.S. forces in Europe, and consisting of a large number of prominent Americans, the committee is undertaking the critical task of mobilizing world opinion to prevent further bloodshed and persecution of minorities in the Middle East. In addition, the committee will seek to facilitate the emigration of Jews and other minorities who wish to leave the area.

Mr. President, I ask unanimous consent that the press release announcing the initiation of this noble and terribly worthy project be printed in the RECORD.

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

NEWS RELEASE

NEW YORK, October 18.—The formation of a Committee of Concern to focus world attention on political trials and hangings of Jews, Christians, and other minority elements in Iraq, and discrimination in other Middle East countries, was announced here today by General Lucius D. Clay, corporate executive and former commander, U.S. Forces in Europe. The Committee includes figures in American business, religion, arts and sciences, universities, public affairs, and civil rights.

Announcement of the organization of the Committee follows the execution August 25 in Baghdad of 15 men, including two Jews and two Christians, on charges of spying for the U.S. and Israel. Last January nine Jews, three Moslems, and two Christians were publicly hanged in Iraq after a secret trial on espionage charges.

In his announcement, General Clay explained that the Committee of Concern, of which he is the Chairman, would work to help secure the release of Jews in prison in Iraq, to ensure freedom of movement for the 2,500 Jews in that country, and to facilitate emigration for those who wish to go elsewhere. He pointed out that several countries, including the United States and Canada, had already indicated their willingness to accept refugees from Iraq if the Iraqi authorities would permit them to leave.

General Clay warned that the latest executions might be a prelude to further trials of Jews, Christians, and other unpopular elements in Iraq.

Last January, General Clay declared, the worldwide outcry that followed the executions may have been a factor in the temporary cessation of espionage trials in Iraq. Now, he added, the regime there may be reverting to its old practices because of the slackening off of public interest in the plight of Jews and other minorities there.

Among those who have already joined the Committee of Concern are: Morris B. Abrams, President, Brandeis University; Louis Auchincloss, author; George Ball, former Under-Secretary of State; Dr. Samuel Belkin, President, Yeshiva University; Algernon D. Black, American Ethical Union; Dr. Louis Finkelstein, Chancellor, Jewish Theological Seminary of America; Dr. Nelson Glueck, President, Hebrew Union College—Jewish Institute of Religion; Arthur J. Goldberg, former Supreme Court Justice and former U.S. Ambassador to the U.N.

Also Helen Hayes, actress; William J. vanden Heuvel, attorney; Hubert H. Humphrey, former Vice President; Dr. Homer A. Jack, clergyman; Seymour Martin Lipset, sociologist; Robert Lowell, poet; Archibald Mac Leisch, poet; Arthur Miller, playwright; Robert Merten, sociologist; Robert Murphy, former Under-Secretary of State, and Chairman of the Board, Corning Glass International; Jan Papanek, Chairman, International League for the Rights of Man.

Also Dr. Isador I. Rabi, Nobel laureate; Bayard Rustin, civil rights leader; Theodore Sorensen, attorney; Dr. Thomas Spitz, clergyman; Dr. Frank Stanton, President, Columbia Broadcasting System; Admiral Lewis Strauss, former member, Atomic Energy Commission; Whitney M. Young, Jr., Executive Director, National Urban League.

AUBURN UNIVERSITY UNAFFLICTED BY CAMPUS UNREST

Mr. ALLEN. Mr. President, at the suggestion of officials of the National Association of State Universities and Land-Grant Colleges, Dr. Harry M. Philpott, the distinguished president of Auburn University at Auburn, Ala., has prepared a résumé of university policies relating to campus unrest.

Mr. President, I take pride in the fact Auburn University has not been afflicted with problems stemming from anarchistic student militancy. There are a number of reasons for this. One important reason is that the university has a continuing tradition of giving sympathetic attention to positive ideas and constructive suggestions of students, and another reason is that Auburn University enjoys an affirmative and exceptionally fine leadership under Dr. Harry M. Philpott. In this connection, Dr. Philpott has stated a philosophy for student behavior which I believe is deserving of careful consideration by students and college and university leadership throughout the Nation.

Mr. President, the Auburn response to student militancy is set forth with clarity, preciseness, and in detail in copies of materials identified by titles, as follows. First, "University Policy for Campus Disruptions"; second, "University Undergoes Modification and Change"; third, Excerpts from a speech of September 19, 1969, to the freshman class; and fourth, three newspaper editorials which relate to protests, discipline, and freedom.

Mr. President, I ask unanimous consent that these items and a covering letter from Dr. Philpott be printed in the RECORD.

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

AUBURN UNIVERSITY,
Auburn, Ala., October 23, 1969.

Hon. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: In the light of recent legislation introduced in the Congress relating to campus disruption and unrest, it has been suggested by officials of the National Association of State Universities and Land-Grant Colleges that you might be interested in some of the things that we have done at Auburn to deal with these things and ways in which we have responded to the positive ideas and suggestions of students.

Perhaps I should mention at the outset that we have not been faced with severe unrest or militancy at Auburn. Our students are interested in Viet Nam, ROTC, disciplinary policies, rules for social behavior, and other issues being discussed throughout the country, but they have not made protests in a militant manner. On the other hand, the administration has tried to communicate with our students and to be as responsive as possible to their proposals.

For your information, I am enclosing the following:

1. University Policy for Campus Disruptions.
2. University Undergoes Modification and Change.
3. Excerpts from a speech which I gave on September 19 to the Freshman Class.
4. Three newspaper editorials which relate to protests, discipline, and freedom.

It is my hope that these enclosures will indicate to you that we are very active in working with students in response to their concerns, but have made it clear that disruptions and the interference with the rights of others will not be tolerated at Auburn.

With kindest regards, I am

Sincerely,

HARRY M. PHILPOTT,
President.

AUBURN UNIVERSITY POLICY FOR CAMPUS DISRUPTIONS

I

Essential to any program of higher education is the necessity for order. Of equal importance is respect for the rights of others. It must be made clear that if any disturbance develops, regardless of the inciting cause, Auburn University will take the necessary steps immediately to protect members of the University from personal injury and its property from damage, and to insure that the normal functions of the university are maintained.

Activities which began as innocent pranks too often are transformed rapidly into massive disturbances resulting in personal injury and property damage, even in times of general tranquility. The danger is much greater at a time such as this when tensions and even violent confrontation can develop so quickly on a college or university campus. It is imperative, therefore, that every member of the university community recognize the potential danger and refrain from participating in or contributing to any activity which might be expected to lead to disruption, personal injury, or property damage.

Students engaged in or contributing to any disruptive or destructive activity will be subject to prompt disciplinary action and, if appropriate, to civil action. Those who are not members of the university community and who interfere with its functioning will be brought before the proper civil authorities. For their own protection, students should have their student identification cards with them at all times.

The restatement of this policy carries with it an expression of confidence that all in the University will continue to recognize the importance of self-discipline in the academic community and will conduct themselves so as to reflect credit on the institution. Such behavior has characterized Auburn in the past and will continue to do so in the future.

II

A. Marches, parades, and such similar activities may be permitted:

1. in areas and following routes designated by Auburn University's Chief Security Officer so as not to interfere with the usual University activities;
2. when the right of free and unchallenged movements of persons other than those involved is not violated;
3. when no libelous, slanderous, or obscene language, displays, or actions are a part of the activity;
4. when such activities, or a part thereof, do not tend to incite violence; and
5. where such activities do not involve violation of criminal statutes.

B. Permits for such activities may be secured from the Dean of Students Affairs and must be obtained not later than 24 hours prior to the scheduled event.

C. Students in violation of these policies and procedures shall be subject to action by the courts and/or Auburn University. The University action will be in accordance with the procedures and penalties shown in the student handbook.

D. The responsibility for implementing this policy is with the Office of Student Affairs with the support of University Security personnel and the Office of the Dean of Women.

III

A. When an assembly is to protest or to petition for a hearing of or relief from a grievance, the petition or protest will be received for consideration by the University agency to which it is directed. After the protest or petition has been presented—after the reason for the assembly has been stated—the group will be expected to disperse. When such assemblage, or any other group, does not disperse and interferes with the normal activities of the University, the following procedure will be put into action:

At the decision of the President, the Vice President for Academic and Administrative Affairs, or the Assistant to the President the following action is to be taken as to those persons remaining:

1. Where time and circumstances permit, a petition will be filed before the circuit court in equity in Lee County requesting a preliminary injunction requiring vacation of the premises.
2. Where injunctive relief is not immediately available, or where there is imminent threat to life or property, a criminal charge may be made based on any unlawful conduct observed, such as disorderly, obscene, or boisterous conduct, assault and battery, or destruction of property, or based on the Alabama criminal statutes prohibiting disturbance of a school, or the City of Auburn ordinance prohibiting assembly which interferes with traffic in or about public buildings. Those persons who are not members of the faculty or student body should be charged with trespassing after warning, under the state code. If there is other unlawful conduct, such as obscene or boisterous conduct or any destruction of University property, then these charges should be made also.
3. A combination of injunctive relief and criminal prosecution may be used.

B. While the procedures stated in A-1, 2, 3 are undertaken, the Chief Security Officer shall advise the group as follows: "Your presence here is interfering with the conduct of the affairs of Auburn University by disruption of traffic and prevention of activities necessary to carrying out the educational mission of this institution. You are hereby directed to leave these premises and withdraw from this unlawful assembly, and you are given five minutes to do so. Any of you who fail to do so may be subject to disciplinary and/or criminal proceedings. I encourage and counsel you to disperse, cease this disruptive activity, and resume your usual and normal University activities."

C. Students who fail to leave after the above warning will be given the opportunity to leave and meet with a staff member from the Student Affairs Office.

D. The following general actions will be followed by the Office of Student Affairs personnel, student leaders, University Security personnel, and others who are working with these personnel in case a building or other facility is being occupied:

1. Place Security Officers inside an occupied building or one to which entry has been blocked. These officers are to protect property and persons and to see that anyone who wants to leave can leave.
2. Keep crowds back, making a separation of the occupying group and other students or on-lookers.
3. Give individuals who voluntarily wish to leave every opportunity to do so after the warning has been given and the time limit has expired. Identify those who leave for later questioning.
4. Do not indulge in negotiations, argumentation, vindictive or threatening dialogue with the isolated group.
5. Take photographs and make notes for later identification.

IV

A. During normal office hours, the Office of Student Affairs will be the receiving center for all information concerning potential campus disturbances. Information will be accepted through students, University employees, campus and city police, and from any other sources that are available.

After office hours, the Dean of Student Affairs, or other staff members in the Office of Student Affairs are responsible for notifying the University telephone operator to call student leaders when an emergency situation arises.

Approximately thirty student leaders have agreed to assist in controlling mass demonstrations. They have been informed of their assigned loctaions and their telephone numbers have been listed with the University telephone operators. When called, they will work under the supervision of members of the Student Affairs staff to encourage participants in the disturbance to disperse and, avoiding violence or physical contacts, to discourage entrance into University buildings. Women members, when called, will assemble with the Dean of Women and her staff at the Social Center and be assigned from there.

Upon receiving adequate evidence that an emergency situation exists, the Chief Security Officer will call to duty such extra forces, including auxiliary police, as he may have available. A man will be assigned to fulltime duty at the Campus Police Office to assist in coordinating activities and relaying messages. Campus police will stand shoulder-to-shoulder with Student Affairs staff members and student leaders toward controlling disturbances.

All efforts will be toward establishing and maintaining communications with the gathered students, avoiding animosity, threats, and hostility, and attempting to disperse the gathering before it becomes a violent mob or takes forceful, disruptive, or damaging action.

The police will arrest, and take to jail, students apprehended while committing such acts as throwing rocks, breaking windows, entering University buildings, or committing other acts of violence. Student Affairs staff members may order the arresters of in-

dividuals when they personally observe the committing of such acts. However, the accusers must be prepared to identify positively those accused and to swear out warrants for their arrests.

In the event reason and persuasion fail and the gathering becomes violent, the police will be prepared and will take action to protect life, property, and to preserve the educational mission of the University.

Campus police will alert the city police when an emergency situation exists. City police will position themselves as observers until called upon for asisstance by campus police.

(Part IV was developed in conference with University and City of Auburn personnel, April 4, 1969.)

AUBURN UNIVERSITY UNDERGOES MODIFICATION AND CHANGE

The Auburn University Administration has made and is continuing serious and conscientious efforts to be responsive to the constructive suggestions and ideas presented by students. The University has undergone many changes, some of which do not immediately meet the eye, but which make Auburn University more able to face the challenge of the future.

In the past year, in particular, many changes and innovations have taken place on the campus, many of which have been suggested and recommended by students. Students have had important roles in analyzing curriculum, revising disciplinary procedures and in planning a greatly expanded program of student activities.

Some of the more identifiable changes taking place on the campus during the past year are—

1. In an endeavor to provide a more meaningful curriculum for our students, particularly in the freshman year, the students, faculty and administration have developed several new course sequences which were offered experimentally last year. Growing out of recommendations adopted as a result of the Project '67 self-study, these have now been incorporated in our general studies program to provide greater educational breadth and required in all schools. The program of liberal education will serve as the foundation for professional and departmental major programs, providing what we anticipate will be a more relevant educational experience for our students.

2. In response to questions raised by concerned students, a student-faculty-administration-military science committee was appointed to review the University's mandatory ROTC requirement. The committee's recommendations, after review and endorsement by the University Curriculum Committee and University Senate, were presented to the President, who in turn recommended to the Board of Trustees that ROTC be made voluntary as soon as feasible with full credit toward graduation continued. The Trustees are expected to make a final decision on November 7.

3. In order to increase the efficiency of registration and fee collection, the Registrar's Office and the Business Office worked out a plan where schedules could be distributed and fees paid by mail for the Fall Quarter.

4. The administration approved a recommendation from the University Senate that a pass-fail grading system be started. Under the system, which is now in operation, juniors and seniors with a 1.5 or better grade point average have the option of taking elective courses on a gradeless basis for credit toward graduation. The plan was designed to help students who might want to take courses not required in their curricula without endangering their GPA's.

5. The Student Government, now officially SGA, and other student activities, received and spent a record $279,000 in the student activities budget. Most of the 17 student activities projects are under student control and supervision with the aid of advisors and student-faculty committees.

6. With support from the University Administration, new projects were sponsored by the SGA. Some of them were Free University classes, (utilizing some university faculty and faculties), teacher and course evaluations, an experimental issue of a literary magazine, the Auburn Review, and the Public Affairs Seminar Board, a committee to bring speakers to the campus.

7. Showing concern for a student voice in the University Senate, the SGA president and the AWS president were named ex-officio members of that body.

8. For many years, Auburn students have served on standing University committees. SGA members also served on ad-hoc committees in planning the Union addition, considering the ROTC issue, selecting furniture for Haley Center, proposing a student academic honor code, revising student disciplinary regulations, the planning for the dedication of Haley Center, and others.

9. After concern was expressed by student leaders, a Student Discipline Committee was appointed composed of students, faculty and administration members to review policies pertaining to discipline, to receive and evaluate suggestions and recommendations from individuals and groups, and to make such recommendations to the President as the Committee thought appropriate. This Committee's findings, which were approved by the Student Senate and the President, provide for greater participation by students in disciplinary matters through increased representation on discipline committees. Disciplinary procedures and penalties for such offenses as rioting, disruption of University operations, dishonesty, and possession or use of illegal drugs were clearly defined and have been published in the student handbook.

10. For the first time, a significant number of coeds (about 175) over 21 years of age received permission to live in apartments in town.

11. After requests by coeds, telephones were installed in all girls dormitory rooms.

12. The AWS Legislative Council proposed that an experimental dormitory be set up for juniors and seniors with a 1.0 average. The plan was approved for the dormitory to operate for four quarters with consideration then being given to a further changing of hours for juniors and seniors. The girls in the experimental dorm follow all regulations except they have self-determined hours.

13. Following a recommendation by AWS, all regulations pertaining to girls dress were eliminated and a single dress rule was adopted.

14. After consideration and recommendation by AWS, approval was given whereby curfew hours were extended by thirty minutes for all coeds.

15. In response to suggestions and recommendations, other changes have been made in rules for girls, such as: girls who are 21 years of age will not have to have a "blanket" permission from home, junior and senior coeds will not have to get permission to visit boys' apartments, and freshmen can, for the first time, secure permission to visit boys' apartments. In addition, penalties given for infractions of rules were relaxed to a degree.

Other innovations and modifications have been instituted at the urging of students. Some of them are adding vending machines in the library, a reduction in the physical education requirement from six to three quarters as recommended by Project '67, and adjustments in student activities fee allocations to some projects so that others could be included.

EXCERPTS FROM A SPEECH BY AUBURN UNIVERSITY PRESIDENT HARRY M. PHILPOTT, FRESHMAN CONVOCATION, SEPTEMBER 19, 1969

You must enjoy freedom if you are to gain an education but this does not mean freedom as it is defined by some today. I trust that you did not come to Auburn with the idea of finding here a place "where every person can do his own thing." If so, you are in for a rude shock Monday morning at seven or eight o'clock when we have some antiquated ideas about class attendance and "doing your own thing" calls for more sleep. Freedom does not exist in the absolute for anyone. If we are to have freedoom in the university, we must have safeguards that will prevent its destruction, safeguards that inevitably limit its expression. No freedom can exist without order and order requires that we surrender some of our freedom for the common good.

For example, the university welcomes and encourages differences of opinion, knowing that this is necessary for great understanding. You will be free to advocate your opinions in discussion, debate and peaceful demonstration. However, you will not be free to advocate them in such a fashion that you deny freedom or the right to learn to others. Even as you do not wish to have opinions forced on you by others, you must not expect to be allowed to force your opinions on someone else.

The university relies on cooperation and not power, on diversity with tolerant understanding and not disturbance. It also requires from you commitment and dedication to things which are greater than you—to the ideal. In a society where too many seem totally preoccupied with their petty needs, vanities, and grasping egos, to speak of ideals may sound strange or even novel. I am, however, convinced that the unattainable quest for the ideal, and true and the beautiful is as fundamental to education today as it was in the Agora of Athens where in the shadow of the Acropolis Socrates prodded his students to think on these things.

Because of this, I have a strange sounding final word of advice for you. It is simply this: "Get lost." It does not mean that I want you to disappear but rather a simple reminder of the words of Jesus: "He that would find his life must lose it, and he that loses his life shall find it." Do you want an education? Lose yourself in the pursuit of knowledge and understanding. Do you want to be a constructive member of the human race? Lose yourself in helpful service to others. Do you want to find security and happiness? Lose yourself in great causes and endeavors. Do you want to find meaning and purpose for your life? Lose yourself in the higher purpose of the God who made you. "Get lost."

[From the Birmingham (Ala.) News, Dec. 14, 1967]

THE LIMITS OF CAMPUS PROTEST

Auburn University President Dr. Harry Philpott, suggested recently that much of the current unrest on college campuses is fanned by organized agitators.

Dr. Philpott was not trying to create a "scare" atmosphere in Alabama; he was conveying impressions gained from talks with other colleges' administrators.

His statements raise some pertinent questions: At what point is a university justified in limiting on-campus activities of its students? Are there in fact agitators who seek to stir up a campus; and if so, do they seek to subvert our national government?

A college administrator might say generally that he can in good conscience condone, and in some cases even encourage, peaceful mass protest, by placing it under the heading of "healthy student interest" or academic freedom. As long as the activity does not appreciably interfere with the orderly functioning of the institution, as long

as it is not physically destructive, it generally is no major threat to society.

But the current protestors maintain that in the interest of "a higher morality," the functioning of the school may be impaired and the "lesser morality" of freedom of speech or of action (of those who might want to talk with recruiters for business or the military) may be subjugated.

We would maintain that the moral character of these protesters is being endangered by their insistence on a totalitarian means (forcibly denying other students the right to meet with the representatives of, say, Dow Chemical Co.) to accomplish a democratic end. Justice Holmes pleaded for "freedom even for the thought that we hate," and the demonstrators seem not to see the strength in this principle.

By the same token, of course, students may take the means-end argument to support many of their cases against what they may believe is an oppressively authoritarian administration. And while there may be a need for reformative action on that level, it certainly is not as much a threat to our system of government as are the current demonstrations.

Being a student does not provide a shield for an assault upon our society. A university does not exist to watch placidly over its own destruction, and should not be expected to do so.

Are the campuses being subverted by professional agitators? There is no conclusive evidence available that this is true, and Dr. Philpott took pains not to accuse any particular group of this. But campuses for many reasons are likely places for agitation.

College authorities will tell us there is a tactical pattern to the current protests. One becomes suspicious at the wide geographical area covered by the protests. And the phenomenon is not restricted to a single size school, nor to a single type school.

At least part if not most of the "pattern" probably is attributable to national student groups which openly circulate representatives from campus to campus seeking to sell specific programs. Some of these organizations are quite vocal and articulate, have definite goals (usually under the heading of "student power") and have a secure financial base, which aids mobility.

The aims of these groups are not necessarily destructive. From them a student might gain a greater "national awareness," as a high level administrator at one Alabama institution suggests. There is certainly no reason to deny flatly their presence on the campuses. Yet, because the groups have a national structure they are attractive instruments through which undesirable interests might function. Student units at member schools might be cautious, then, of endorsing blindly every action of parent organizations.

College administrators are faced with the problem of guiding, through dialogue, the vast majority of the restless students who intend no subversion. These students must be warned of the danger that some might seek to exploit them for devious purposes.

Alabama administrators have not been confronted yet with a large wave of student protest. To guard against that ever happening, they must examine their own campuses for possible genuine student grievances, and maintain open channels to all segments of the student body to identify trouble spots.

Too, campus authorities must be prepared to act quickly and decisively if they identify a disturbance as destructive to the campus life. And if the disturbance holds evidence of subversion, from within or outside the institution, they should be prepared to hand this information to the proper investigative officials.

There are insistent reasons why this should be done. Columnist Max Lerner put these reasons bluntly: "Too much thought and passion and concern has been built into the structure of freedom and community on the American campus to be scrapped in the interest of student political anger today."

[From the Anniston (Ala.) Star, Mar. 27, 1967]

PHILPOTT ON FREEDOM

With his admirable incisiveness, Dr. Harry Philpott addressed to the March graduates at Auburn recently deliberations on freedom and discipline that deserve the thoughtful attention of all Americans.

The Auburn University president spoke in a few words volumes of wisdom about freedom and what it means to man, some excerpts here catching the high points:

"This graduating class generally covers a time span on the campus from 1962 to the present. Great events have transpired during this period of time and important issues have occupied your attention. One of the most important themes of concern to all people in this era has been that of freedom.

"On the international scene, we have witnessed the continuation of the struggle for national liberty and the emergence of new nations. Within our own nation and state, there have been various movements seeking freedom from prejudice, freedom from poverty, and freedom from oppression. Within the community of university, students have concerned themselves with their own freedoms. No issue has been of greater concern to administrators and faculty members . . .

"Freedom, as a value or goal, never stands alone—it must always be balanced with responsibility or, to use a term that is not very popular today, with discipline. We delude ourselves when we advocate, discuss, or seek freedom as an absolute. As long as we live in a human society it must be sought within the balancing concept of discipline . . . Freedom without discipline results only in chaos, disorder, and anarchy . . .

"If you will remember only one thing that I have to say today I hope that it will be this. Human history teaches us that men will be disciplined from within or they will be disciplined from without. (Here Dr. Philpott pointed out that the leftist revolution of Russia and Hitler's rightist revolution in Germany succeeded because they provided order—even if by force—to replace existing anarchy).

"All too much of our agitation and discussion today centers on freedom *from* something. Too, little attention is given to the more important aspect of freedom *for* something.

"There is a yearning within all of us also to be our own master. Yet, it is one of the paradoxes of life that we cannot attain this unless we are mastered by something greater than ourselves. It is in losing life that we find it and we become masters only by submitting ourselves to the mastery of a great cause, a great idea, a great faith . . . In the words of Tennyson in 'Oenone,' self-reverence, self-knowledge, self-control, these three alone lead life to sovereign power'."

Dr. Philpott's words put one of our most cherished—and most perishable—possessions, freedom, into meaningful perspective.

[From the Gadsden (Ala.) Times, Mar. 29, 1967]

UNIVERSITY PRESIDENTS SPEAK FOR DISCIPLINE

Youth is a time for questing and testing.

Crusading and missionary zeal are part of its endowment. Rebellion against restraint often seems natural as breathing.

But coupled with this fervor and enthusiasm is a need, perhaps subconscious, for restrictions imposed by authority. Youth may rail against the restrictions—but secretly it welcomes having its prerogatives defined. It recognizes the need for some sort of protection during its questing years.

For this reason we have been totally out of sympathy with the tendency of many universities to refuse to acknowledge any responsibility for establishing and maintaining reasonable standards of ethics and conduct on campus.

It is not the rebelliousness of youth that has so often distressed us, but the acquiescence of the establishment. Capitulation to all the demands of youth is unnatural and unhealthy. And the results may be disastrous.

Therefore, we note with satisfaction the stand of President J. Roscoe Miller of Northwestern University in a specific ruling and of President Harry Philpott of Auburn University in defining a philosophy for student behavior.

Dr. Miller turned down a recommendation by a student-faculty committee that drinking be permitted on campus. The proposal, he said, "runs counter to standards of . . . administration and is clearly not reconcilable with the moral and ethical standards of this university.'

He was not impressed by the committee's plea that the no-drinking rule is constantly violated. True, he acknowledged, but revoking the rule would merely "make an already difficult situation impossible for administrative control."

This is the voice of common sense.

Dr. Philpott brilliantly presented the necessity for discipline in an address to Auburn's pre-Easter graduating class.

"Freedom without discipline results in chaos, disorder and anarchy . . . From history there is a clear proclamation that the one thing human beings cannot endure is chaos and disorder. A society cannot exist without discipline, nor can an individual.

"Human history teaches us that men will be disciplined from within or they will be disciplined from without. To speak of freedom only and forget the necessity of discipline is to forget the recorded experience of mankind."

Dr. Philpott touched on the difference between the desire of youth to be free from something and the more mature desire to be free for something. He concluded:

"It is our hope that you will seek and covet freedom for the creative use of your highest and best talents, for the constructive service of your fellow man and for the fulfillment of God's purpose in your life."

JUDGE CLEMENT HAYNSWORTH

Mr. McGOVERN. Mr. President, the nomination of Judge Clement Haynsworth to the Supreme Court, as is the case with any such nomination, calls for the exercise of one of the Senate's most imposing responsibilities. The obligation to confirm or deny confirmation is equally as demanding as the President's power to nominate the membership of the highest judicial body in the land. It requires our careful attention not only to the judicial philosophy of nominees—which should play a relatively minor role in our analysis—but to their intellectual stature, their personal qualifications, and their sensitivity to issues which can enhance or degrade respect for the law.

It misses the point to describe our investigations as "character assassination." In the case of Judge Haynsworth we must assume that his background was thoroughly examined and considered before he was nominated. It would be an abandonment of responsibility for the Senate to do less prior to confirmation. We have a further obligation to apply our stand-

ards, just as the President has applied his, before we vote, notwithstanding the possibility that our standards may differ from those formulated in the White House.

Of the arguments against confirmation I find quite persuasive Judge Haynsworth's retention of a large block of stock and of corporate office in a company which was bound to, and did, become involved in a controversy before his court. I think it raises serious questions about his judgment.

In the November 1 issue of the New Republic, Yale Law Prof. Alexander Bickel writes of the meaning of this set of circumstances. He points out, correctly, that—

> Judge Haynsworth's honesty and integrity have not been successfully impugned—or impugned at all—and the President is quite right; it would be unfair to drive him off the federal bench. But the Senate is not considering articles of impeachment. It is weighing Judge Haynsworth's qualifications for higher judicial office. The issue is not his honesty but his ethical sensitivity.

Further on, Mr. Bickel suggests that—

> There are two sets of standards of ethical behavior in any profession; a common standard, codified with more or less precision, and a more sensitive standard, which is hopefully the emerging common one. It is desirable to hold nominees for the Supreme Court to the standard of highest ethical sensitivity.

Mr. President, because I believe it provides a most helpful analysis of the questions which should concern us in passing on the Haynsworth nomination, I ask unanimous consent that Mr. Bickel's article, "Does It Stand Up?" be printed at this point in the RECORD.

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

DOES IT STAND UP?

(By Alexander M. Bickel)

Mr. Nixon is the first genuine lawyer-President in over half a century, with the ambivalent exception of FDR—and his professional skills were in evidence as he insisted on the nomination of Judge Clement Haynsworth for the Supreme Court. Mr. Nixon makes the strongest case possible for confirmation. But lawyers are often better than their cases, and the Haynsworth case is ultimately weak.

The President's basic argument is that Judge Haynsworth is a competent—Mr. Nixon thinks a good deal better than competent—lawyer, that his ideological leanings are congenial to the President, and no concern of the Senate, and that the charges of misconduct that have been leveled against Judge Haynsworth have in no instance been supported by proof of dishonesty, impropriety or even the appearance of impropriety. The emphasis, of course, is on the charges of misconduct, and the President says that in no case which Judge Haynsworth sat was there the remotest showing that he had improperly used his influence in a party's behalf, or that he was in any way himself improperly influenced in a party's favor. Judge Haynsworth's choices whether to sit or disqualify himself in various cases where he was alleged to have an interest conformed to standards established by law and by canons of judicial ethics. He is an honest man, the President says, and his integrity is above suspicion. To withdraw the nomination in these circumstances would be unjustifiably and cruelly to "take upon my hands the destruction of a man's whole life, to destroy his reputation, to drive him from the bench and public service."

Judge Haynsworth's honesty and integrity have not been successfully impugned—or impugned at all—and the President is quite quite right; it would be unfair to drive him off the federal bench. But the Senate is not considering articles of impeachment. It is weighing Judge Haynsworth's qualifications for higher judicial office. The issue is not his honesty, but his ethical sensitivity. No more than insensitivity to ethical standards of judicial behavior was shown against Justice Fortas when the Senate, with no thoughts of driving him from the bench, failed to confirm him as Chief Justice. And no dishonesty, no actual influence-peddling was shown against Justice Fortas, even later, in connection with the Wolfson matter, when he was in fact driven from the bench. Just plain honesty and law-abiding conduct are not all we are entitled to demand of men who are to be raised to the highest judicial offices. Judge Haynsworth's transgressions are not comparable to Justice Fortas' in the Wolfson matter, although Justice Fortas' downfall was itself the consequence more of the appearance than the reality of his behavior. But Judge Haynsworth is up for promotion, not banishment.

It is wrong for judges to serve as corporate officers. The Judicial Conference said so in 1963, when it was discovered that some federal judges did hold corporate office. Most did not, of course. Judge Haynsworth was one of those who did, and he quit only when he was told to. Senators who oppose Judge Haynsworth's nomination are right to think that it would be better to have on the Supreme Court men who don't need to be told. It does not follow that they must also wish to banish Judge Haynsworth from public life.

Judge Haynsworth owned a one-seventh interest in a company, Carolina Vend-A-Matic, which did its business right in his judicial circuit. His initial investment was small, but when he sold it in 1963 (he had been an officer of Vend-A-Matic, and he sold out after he was required to resign) it was worth upwards of $400,000, and apparently constituted about half his personal fortune. More than once, Judge Haynsworth sat in cases involving customers of Vend-A-Matic. The contracts with these customers were sizable; in the Deering Milliken case, $50,000, plus another $100,000, Warren Wheeler reports in *The New York Times*, awarded while the litigation involving Deering Milliken was pending before Judge Haynsworth and his colleagues.

What if a judge owned stock in US Steel, as no doubt some do, says the President, defending Judge Haynsworth? US Steel has many customers. Must a judge disqualify himself in every case involving one? If so, says the President, perhaps half the federal judges "would have to be impeached" because they do not disqualify themselves in such cases. But how many federal judges own one-seventh of US Steel? How many have a sizable investment, constituting something like one-half their wordly goods, in a company actively soliciting business right in the judge's jurisdiction, where the company's customers are almost certain to surface in litigation in the judge's court? Besides, the question is not whether Judge Haynsworth should be impeached.

Judges may own stock, and perhaps they should be allowed to manage their own investments rather than being required to put them in trust and thus to insulate themselves from them. But Judge Haynsworth not only a heavy investment in a local business—Vend-A-Matic—resulting in an unusual kind of identification on his part with that business even aside from his directorship in it; he had in addition a diversified and active portfolio, which not unnaturally created a series of disqualification problems for him. Possibly he was right in each instance, other than the Vend-A-Matic cases, in which he did not disqualify himself. But was he right in courting these problems by maintaining an active and diversified portfolio?

A judge does not disqualify himself only when he is consciously aware that his interest in one of the parties would influence him. No man knows himself quite that well, and the public ought not to be asked to rely on such exquisite self-knowledge. Judgment may be influenced in subtler ways, less apparent on the surface of consciousness, and people—especially litigants—may at any rate suspect as much. The law and the practice that seek prophylactic assurance against bias in decision-makers—administrative and executive as well as judicial—address themselves not only, not even chiefly, to the existence in fact of conscious bias, but to the existence of relationships which may possibly cause bias, consciously or otherwise. The test is the sort of surmise that naturally arises out of general human experience, not whether in a given case actual bias can be shown.

Surmises of bias get remoter and remoter, to be sure. It becomes a question of degree, and a difficult one. No judge, not even a pauper, can avoid the problem forever, but it is a judge's duty so to conduct his private affairs that he faces it as infrequently as possible. Judge Haynsworth's Vend-A-Matic connection guaranteed that he would face the disqualification problem in aggravated form, and when, sure enough, he encountered it, he solved it wrongly—not culpably, but wrongly. His active and diversified portfolio guaranteed, moreover, that he would face the problem elsewhere with what one hopes is unusual frequency.

There are two sets of standards of ethical behavior in any profession: a common standard, codified with more or less precision, and a more sensitive standard, which is hopefully the emerging common one. It is desirable to hold nominees for the Supreme Court to the standard of highest ethical sensitivity. In the process, a certain injustice may be done to a perfectly honest man like Judge Haynsworth, who does not quite measure up. This is a price that is paid for raising the general standard. And the injustice, if anything, was inflicted by the nomination. If the appointment fails, Judge Haynsworth may continue to serve honorably where he is. Other judges may, as he has said he will in any event, resort to trusts, buy land, as the President has done, or government bonds, of blue-chip stocks in a few large, impersonal corporations. Disqualification problems will still arise, but more rarely, and not with customers of US Steel or General Motors.

The President was on sounder ground when he urged that senators who disagreed to some extent with Judge Haynsworth's opinions ought not to vote against him for ideological reasons. Ideology is relevant to both Senate and President in the performance of their functions. They are partners in exercising through the appointment process the only available form or direct political control over the Court. When the ideological clash between a nominee and a Senate majority is sufficiently violent, the Senate is well within its rights to reject the nomination, and it has done so in the past. Ideology was one, if only one, of the factors that prevented confirmation of Abe Fortas as Chief Justice.

But President and Senate are partners, and the Constitution gives the President the initiative. In order to refashion the Court so as to please himself, he were to attempt to move it beyond an ideologically moderate position, senators who are of a different mind ought to resist. But Judge Haynsworth is no reactionary. His civil rights record is centrist, although more cautious

than some senators might like. If the Senate demands precisely the ideological profile it would prefer, the appointment process will be in deadlock. Judge Haynsworth should be seen ideologically as falling within that area of tolerance in which the Senate defers to the President's initiative.

The real issue is not judicial philosophy, but ethical standards, and these are equally the Senate's concern as the President's. So the Senate has shown time and again, in passing on nominees for executive offices.

NEEDS CITED FOR NATIONAL TIMBER SUPPLY ACT

Mr. HATFIELD. Mr. President, recently, the Senate Subcommittee on Soil Conservation and Forestry of the Agriculture Committee held hearings on S. 1832, which would enact the National Timber Supply Act. In Oregon, I might remind my colleagues today, the Federal Government owns 51 percent of my State's land. Much of this is in national forests, and is administered by the Forest Service.

Because the lumber industry is of such importance to my State where one out of every five lumber producing trees in the United States grows, and because our Nation is falling behind in meeting its housing goals, I am calling the attention of my colleagues to this bill and the need for its passage. The lumber industry today is in a period of a slack market, and the bill should be considered now, when extreme pressures are absent that were experienced when the lumber prices rose so rapidly last year.

This bill would assist the Forest Service in its management of our lumber producing areas. It would help the lumber industry which employs 85,000 Oregonians to produce enough timber to meet our Nation's growing lumber needs. It would help our homebuilding industry and our many new home buyers by helping keep down the price of new houses.

Although they are not in support of this bill, I think it would benefit the conservation groups who want to protect our timberlands from any encroachment by lumber interests. If we make better use out of lands now classified as commercial timberland, this will lessen pressures for timber in other forest areas. Our country needs pure wilderness areas, where a person can be free from all encroachments of man. We need easily accessible recreation areas, so that a majority of the population can get out into our forests to enjoy their many pleasures. In addition, Oregon must realize the importance of its lumber based industries, and see that those interests are not overlooked in a "cut no trees" campaign. We can protect our wilderness and recreation areas better through intensified management of our timberlands.

Mr. President, I ask that the Senate think seriously about this problem. To those Senators who represent States without timberlands. I remind them of our Nation's housing goals. We must see that sufficient lumber is available—not just in 1970, but also in 1980 and 1990—to meet these housing goals. A decent home for every American should be a prime goal for those of us who are concerned with urban problems. We here in the Senate who represent States with substantial timberlands are aware of the need for this bill, S. 1832, to pass and be put into effect.

I ask that unanimous consent be given to the printing of my statement in support of S. 1832 to the Subcommittee on Soil Conservation and Forestry at the conclusion of my remarks.

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

STATEMENT OF SENATOR MARK HATFIELD

As a cosponsor of S. 1832, the National Timber Supply Act of 1969, I was most gratified that your Subcommittee conducted hearings today on this measure of such fundamental importance to not only the State of Oregon but all other timber producing states of the nation.

While Oregon produces the largest volume of timber products among the fifty states; it is, like every other state, facing a growing crisis in housing its people adequately. There is a direct correlation between the production of lumber, plywood and other wood products and the realization of our national goals of a decent home for every citizen. Unless the Congress acts now to assure optimum production of wood fiber from the vast area of commercial timberlands on the National Forests, we will never be able to fulfill the demands for the timber-based building materials we must have to build 26 million new housing units by 1978.

The forests, as I have indicated, are of critical importance to Oregon. They are the basis for 85,000 jobs in the state; one of every five trees made into lumber and plywood anywhere in the United States are grown in Oregon; three-quarters of those trees are standing on Federal timberlands within the state. It is apparent, therefore, that the destiny of Oregon is directly related to the effectiveness with which the National Forests are managed. S. 1832 provides the means for the Forest Service to attain the high quality timber management practices which are already commonplace among industrial ownerships and on state and Bureau of Land Management commercial timberlands in Oregon.

The Forest Service has demonstrated that it has the skills to do an effective forest management job given the long-range financial assurances it must have to undertake intensified timber growing and harvesting. It would be wrong for the nation to consign these highly qualified and dedicated professionals to the caretaker activity of the past when they have the ability to contribute substantially to both the economic and social well-being of the nation.

Intensified management of Federal lands already classified as commercial timberlands will aid materially in assuring retention of other forest lands for wilderness and primitive areas and I consider this of vital importance.

I support the approach that generally high yield funds should be reinvested in the National Forests that produced the revenue. This would assure that the government gets the best return on its investment.

In conclusion, it is my conviction that S. 1832 should be passed promptly by the Senate and I would urge that the Subcommittee on Soil Conservation and Forestry act with dispatch to move the measure towards the floor for adoption by the Senate. Action should be taken now, while high mortgage rates have caused a temporary lull in demand, if we are to meet the clear needs of the future.

STORAGE AND PRODUCTION OF POISON BULLETS

Mr. NELSON. Mr. President, in 1946, Dr. Theodore Rosebury, a scientist who served as chief of the airborne infection department of Fort Dietrick during the Second World War wrote:

The mere availability of offensive biological weapons constitutes a hair trigger mechanism, ominous in its capability for damage which may possibly be irreversible. The pursuit of a policy of offensive development must foster military rivalry between nations . . . it must tend to stimulate an international race in armaments of mass destruction.

While many proponents of CBW work often argue that defensive research and development is necessary for our Nation's security, it is often difficult to discern the fine line distinction between offensive and defensive research and offensive and defensive weapons. In fact, many contend that the distinction between the two is so fine that to talk in terms of offensive and defensive weaponry is meaningless. However, the military has argued that CBW research and development are necessary so this country can build up adequate defenses in case of a CBW attack.

Last Friday, an article, entitled "20,000 Poison Bullets Made and Stockpiled by Army," written by Robert M. Smith, and published in the New York Times, reported that the U.S. Army had produced and stockpiled bullets filled with the disease germ botulinum. While it is widely known that the United States has experimented with biological weapons, it is a matter of grave concern to find out that munitions have actually been produced and are in our arsenal—ready for use.

It is pretty clear that bullets loaded with infectious diseases are weapons of combat—designed to kill an enemy. Such devices in no way provide a measure of protection to ourselves as would a gas mask or other defensive weapons.

Several months ago, the Senate by a unanimous vote of 91 to zero passed an amendment to the military procurement authorization bill. In that amendment the Senate made known its feelings about the development of systems capable of delivering biological weapons. It was unanimously agreed that we should not continue our work in developing delivery systems specifically designed for biological weapons. The purpose of this provision was to make clear to the Department of Defense that the U.S. Senate does not approve of the use of biological weapons for war. The Senate, in short, was saying to the Department of Defense: If you find it necessary to do research on biologicals so the United States will know what the enemy scientists are capable of doing, and if our research endangers neither people nor the environment, then go ahead and continue research. But what was clear also was that the Senate did not want the Army to go ahead and put these biological weapons into capsules or munitions that could be used against an enemy.

Earlier this month I was encouraged by the news that the Secretary of Defense had recommended to the National Security Council that our work on biological weapons be completely halted. This proposal seems wise and I hope it is accepted.

What seems obvious is that there is disagreement within the Defense establishment about biological warfare weap-

ons. Certainly additional ammunition should not be produced or filled with biological toxins contrary to the clearly expressed opposition of the Senate.

In the Senate- and House-passed amendment on CBW, it was clear that Congress was vitally concerned about CBW. Full reporting of our actions in this areas is necessary. Congress and the public should be informed now about bullets and any other munitions stockpiled that carry disease germs.

Mr. President, 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:

20,000 POISON BULLETS MADE AND STOCKPILED BY ARMY

(By Robert M. Smith)

WASHINGTON, October 30.—The Army has produced and stockpiled more than 20,000 poison bullets.

It is reliably reported that the bullets contain Botulinum—a toxin that produces an acute, highly fatal disease of the nervous system.

A secret memorandum prepared in 1966 by Chemical Corps officers for Secretary of the Army Stanley R. Resor said that thousands of the bullets had been produced and stockpiled at Pine Bluff Arsenal, in central Arkansas.

There is no evidence that the bullets have been used.

It is not known whether the United States is still producing the poison bullets. However, in recent private conversations with other Government officials, Defense Department personnel have indicated that the bullets are, at the least, still stockpiled.

Officially, the Defense officials have shied from the questions of officials in other departments as to what the "special" weapons at Pine Bluff Arsenal are; they refer to them in only the most general terms.

A series of questions concerning the poison bullets was submitted to the Defense Department this afternoon. Col. Rodger R. Bankson, director for defense information, called late in the afternoon and said, "I have no comment on any of your questions."

The National Security Council is now in the final stages of a review of the United States' chemical-biological warfare policies. An interagency staff report has been prepared on chemical-biological warfare, and the report is currently being discussed by high officials of the Pentagon, State Department, Arms Control and Disarmament Agency and other agencies.

President Nixon plans to meet with the National Security Council in early November to consider the issue and to try to formulate a chemical-biological warfare policy.

Reliable sources say that the 1966 memo divided the poison bullets into two types—.38-calibre and "separable." It is not clear what "separable" means. The sources say the memo reported that considerably more than 10,000 bullets of each type were stored at the arsenal.

Knowledgeable sources indicate that the poison bullets could logically serve only one purpose: assassination. To kill an enemy leader with a poison bullet, it would be necessary to do no more than nick him; he would very likely die of botulism, the disease induced by the powerful toxin.

It is not clear whether the United States produced poison bullets before 1965. However, that is the first reference to the bullets that sources familiar with Army weaponry say they have seen.

The year 1965 was when the United States began to send large numbers of combat forces to Vietnam. In 1964, there were 23,300 American troops in Vietnam; in 1965, there were 184,300.

The Hague Convention of 1907—which the United States has signed—prohibits the use, but not the manufacture, of poison weapons. This injunction is repeated in the official Army guide to the rules governing warfare, Army Field Manual 27-10, "The Law of Land Warfare."

"It is especially forbidden," the manual points out, "to employ poison or poisoned weapons." At another point it notes: "It is especially forbidden to employ arms, projectiles or material calculated to cause unnecessary suffering."

The Pine Bluff Arsenal has both biological and chemical production facilities. In the biological area, five officers, four enlisted men and 323 civilians are engaged there in a $7-million-a-year operation centered in a 10-story tower.

The Army has described the biological plant at Pine Bluff as a "pre-production facility." It says that the arsenal produces biological agents to develop the techniques and "hardware" necessary to mass produce the germs if they are needed.

The operation, the Army says, also involves storing some of the germs and toxins the dead but poisonous byproducts of bacteria) in refrigerated "igloos." The igloos, in the north and central portions of the arsenal, are reinforced concrete huts covered with two to three feet of dirt.

There are 273 igloos at the arsenal, plus 32 warehouses, 16 sheds and 72 concrete magazines, but it is not known how many of the igloos are used to store biological agents. Pine Bluff also stores lethal chemical agents.

Presumably the poison bullets are stored in the concrete magazines.

Specific information on bioligical agents is secret. However, Representative Richard D. McCarthy, Democrat of upstate New York and an outspoken critic of United States chemical and biological warfare policy, has said that the disease-bearing weapons that the United States develops, tests and in some instances stockpiles would cause—besides botulism—anthrax, tularemia, Q-fever, and Venezuelan equine encephalitis.

Another Army manual, Technical Manual 3-216, "Military Biology and Biological Agents," discusses the disease botulism in some detail.

The manual says that the mortality rate of botulism is 65 per cent in the United States. However, Americans contract the disease by eating contaminated and improperly cooked food. Presumably, the mortality rate would be higher if the toxin were introduced in a concentrated form and through a bullet wound.

The Army manual says that the symptoms of the disease appear in 12 to 72 hours and that "antitoxin therapy is of doubtful value, particularly when large doses have been consumed." The disease is not contagious.

The manual says that the "through repeated purification procedures [the toxin] has been obtained in a crystalline form and is one of the most powerful toxins known."

"Botulism is an acute, highly fatal disease," the manual continues. "It is characterized by vomiting, constipation, thirst, general weakness, headache, fever, dizziness, double vision and dilation of the pupils. Paralysis is the usual cause of death."

ENVIRONMENTAL QUALITY: PESTICIDES, NUTRIENTS, AND RESOURCE REUSE

Mr. TYDINGS. Mr. President, the public demand for effective action to protect our environment from the indiscriminate and often widespread use of persistent pesticides continues to increase. Our land, water, and wildlife have been severely abused by these pesticides.

The Department of Interior recently released the results of a 2-year study that indicated extensive pesticide residues were to be found in 584 of 590 samples of fish taken from 45 rivers and lakes throughout the Nation.

The focus of public concern is now on DDT, perhaps the best known of all the pesticides. Yet DDT is but a member of the family of chlorinated hydrocarbons, all of which are destructive to our environment. Other chlorinated hydrocarbons are aldrin, dieldrin, and endrin. Like DDT, the use of these pesticides should be curbed.

Last July I introduced a bill that would place a 4-year moratorium on DDT and these three pesticides. While the bill, S. 2747, has little chance of enactment, it has, I hope, contributed to building the momentum required for effective action.

Quite recently a new coalition of conservationists requested the Department of Agriculture to ban the use of DDT. I support this request and ask that a November 1, 1969, article in the Washington Post reporting this action be printed in the RECORD.

Yesterday, the Washington Post published an interesting article entitled "West's Sky-High Lake Tahoe Is Being Polluted by Algae," written by John Berthelsen. Tahoe is one of the most magnificent lakes in the western part of the United States. Yet by unwise, extensive and unplanned development, Lake Tahoe is now seriously endangered. This development leads to nutrient enrichment within the lake. Phosphate and other nutrients pour into the lake and stimulate extensive vegetation. This vegetation increases and eventually depletes the supply of oxygen in the water. When this results, the lake begins to die, or eutrophy, as the ecologists term it.

Nutrient enrichment is a danger to our water resources and must be recognized as such. Our waters may die, not by first destroying the life within but rather by increasing it to the point of suffocation.

I menton this to the Senate for at times during the summer, nutrient enrichment endangers the Upper Estuary of the Potomac. I mention it also because it is probably the primary long term threat to the Chesapeake Bay. As Dr. Donald Pritchard, director of the Chesapeake Bay Institute at the Johns Hopkins University, has said, if the bay is ruined it will first become a jungle rather than a desert. I ask unanimous consent that Mr. Berthelsen's article be printed in the RECORD.

Finally, Mr. President, I invite the attention of the Senate to an article entitled "Meeting the Crisis of America's Environment," written by the distinguished architecture critic of the Washington Post, Mr. Wolf von Eckardt and published in the Sunday, November 2, Post. Mr. von Eckardt notes that the key to restoring the quality of our environment is "the continuous reuse and regeneration" of our resources. The environment is a "system," a single unit of almost infinite resource relationships that are tied together and can be rather easily disturbed or thrown out of balance. We must thus not consider the byproducts

of our society as wastes but rather as resources to be treated and reused again and again. In the environmental system there are no wastes as such, only resources in a less usable form. Until we both accept the concept of resource reuse and in fact act upon it, there is little hope of cleaning our water and air and of restoring the quality of our environment.

I ask unanimous consent that Mr. von Eckardt's article be printed in the RECORD.

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

[From the Washington (D.C.) Post, Nov. 1, 1969]

U.S. BAN ON DDT IS URGED

A new coalition of conservation groups asked the government yesterday to ban the use of the long-lived pesticide DDT which they said was possibly the worst polluter of nature in the world.

"DDT is contaminating the earth," the Environment Defense Fund said as it presented Agriculture Secretary Clifford M. Hardin with a petition requesting that he halt licensing of the pesticide.

"Those participating in the petition included the National Audubon Society, the Sierra Club, the Izaak Walton League, and the Michigan Environment Action Council. The United Auto Workers union backed up the plea.

In addition to its petition to Hardin, the group asked Secretary Robert Finch of the Health, Education and Welfare Department to ban the sale of any foods that show traces of DDT. The department now sets tolerances for limiting the residual DDT that is permitted in foods.

Former Interior Secretary Stewart Udall, leading off the news session, said: "If I can use a baseball parallel, the action on herbicides was a single, the cyclamate ban a double, and the best home run could be a ban on DDT."

[From the Washington Post, Nov. 2, 1969]

WEST'S SKY-HIGH LAKE TAHOE IS BEING POLLUTED BY ALGAE

(By John Berthelsen)

LAKE TAHOE, October 25—This beautiful sky-high lake, nestled into the crook in the imaginary line denoting California's eastern border, is one of the purest in the world.

Its color a deep blue instead of green, it is overshadowed by 10,000-foot Sierra Nevada peaks. A few miles away, the famed Donner party froze to death. But Tahoe does not freeze over because it is so deep.

Big enough to cover the state of Texas with a film of water 8 inches deep, Tahoe itself is only 22 miles long and 12½ miles wide.

It is 1,645 feet deep. This size, however, is being diminished by algae in the water.

"In the past 10 years," says Dr. Charles R. Goldman, director of the Department of Ecology on the Davis campus of the University of California, "fertility in the lake has increased by 75 per cent.

"If this progression continues, the lake will decline rapidly. We already have immense growth of attached algae on rocks in shallow areas. Ten years ago, these algae did not exist."

Oddly, the pollution of Lake Tahoe is coming at a time when the area has made an excellent start in curing its sewage and effluent problems. At one end of the lake, an entire district's sewage is being pumped out of the glacial basin in which the lake lies, down the side of a mountain and into the Indian Creek reservoir, created especially for this purpose.

THROUGH SEVEN PONDS

The effluent and sewage go through a total of seven different settling ponds before they end in the reservoir, and the resultant lake is clean enough to drink out of at the end of the process. Also, though there is now little access to it, Indian Creek is slated to become a recreation site for fishing and boating.

Around Lake Tahoe itself, it is illegal to dump sewage directly into the lake. But it is not sewage that is causing Tahoe's problems. For, according to Goldman and many others, the nutrients that feed trees and make them grow, also will feed vegetation in the lake itself.

These nutrients are being poured into the lake because of the development of the area; highways, shopping centers, recreational areas and housing developments are going up at a terrific rate.

This year within the Tahoe basin, 773 units have been approved by the planning department. Most of them are condiminiums and that many more are expected to be approved in the next year.

Any kind of construction at all strips the cover from the ground. Fir and pine needles, small brush, rotting wood and foliage, are all washed down the steep sides of the basin and end up in the lake, thereby increasing the nutrients on which algae feed.

In the natural geologic aging process, these things are bound to happen. All lakes are constantly in the process of becoming more fertile as their watersheds erode. This process is called eutrophication. As they become more fertile and algae grows, finally resulting in the removal of oxygen from the water, fish and other marine creatures cannot live.

VASTLY ACCELERATED

This process normally takes tens of thousands of years. But it has been vastly accelerated in other lakes, the most notable Lake Erie. Man made it a "dead" lake in one generation.

Lake Tahoe is far from this kind of ruin. Except for the busy beach areas and at the mouths of streams, the water is as pure as it was 100 years ago, according to California sanitarians, and the clarity of the water is as great as it was in 1873 when a 9½-inch dinner plate could be seen at a depth of 108 feet.

But every disturbance of the watershed has its influence on the lake, and eutrophication cannot be reversed. There is almost no way Tahoe can "flush" itself, Goldman adds.

All conservationists and many public officials say the only way to slow the process is to limit development. Goldman, who spent 9 years studying the lake from a research station on location, says the only structures that should be allowed are those which would disturb nothing—hardly even the pine needles.

Tahoe, however, has become one of the glamor locations of the West Coast, with a tremendous surge of population, for a variety of reasons. Nevada shares the coastline with California, and gambling casinos abound on the Nevada side. Californians flock to them, as well as to the superlative ski areas and the natural beauty of the lake itself.

The possibilities for profit have drawn many developers including the Boise Cascade Timber Products Company which created a luxury community called Incline Village. Incline Village has come under fire from every quarter for its cutting away the natural cover and for its use of treated sewage on its golf course.

"The big problem is that most of these developers are major league," said one observer, who does not want to be identified, "and its planning bodies they are dealing with are not. The planners think of progress in terms of money and that is ruining the lake."

The other problem is that until recently there was nobody to control the developers, who busily carved road cuts, ski areas and housing developments into the mountains, and the lake was a tangle of governments shared by two states and half a dozen counties.

In March of 1967, after a year of discussions, a bi-state regional government was formed with the California side having the power to levy taxes, enact ordinances, and police standards and ordinances. The Nevada side has none of these, as of yet.

California's agency, however, is threatened with a suit being brought by developers at the south of the lake, and by one of the counties which border the lake, testing its police power after it stopped the Tahoe, Paradise Co. from cutting trees.

The outcome is eagerly awaited, for conservationists see it as determining Lake Tahoe's fate. The conservationists have picked an inauspicious year—1984—for Tahoe's demise. By that time, they say, the algae in the lake will turn it from blue to green.

But, says one real estate saleswoman at Boise Cascade's Indian Village, if the lake turns green or she runs out of land to sell, she will just move on. There are other lakes in the High Sierra country.

[From the Washington (D.C.) Post, Nov. 2, 1969]

MEETING THE CRISIS OF AMERICA'S ENVIRONMENT

(By Wolf Von Eckhardt)

Next spring the kids on the campuses all across the nation will conduct a teach-in on the crisis of environment.

A special day, still to be announced, will be set aside from routine business. And that day may launch a popular movement to demand a national environment program much as we have a national defense program and on much the same scale.

The teach-in is the idea of Sen. Gaylord Nelson (D.-Wis.) who, like so many of us, had reached the desperation point about the insanity of a society that offers its young no hopeful future, a society that is about to kill its own children, if not by nucelar war, more slowly, by poisonous pollution.

Sen. Nelson announced the teach-in 10 days ago and says the response has been "overwhelming." There will be symposiums, convocations, panel discussions and outdoor rallies among students, scientists and faculty members, as well as labor, conservation, women's and other citizen organizations.

The senator says a Washington office to coordinate the event will be opened next week. But on each campus the students will do their own thing.

At the University of California they are likely to focus on the Santa Barbara oil spills. At Wisconsin they'll mostly talk about the impending death of Lake Erie.

On city campuses, the foremost concern will be the poisoned air. All the teach-ins will endeavor to involve their local community and emphasize local problems.

But the teach-ins will undoubtedly stress that the crisis of the environment cannot be viewed or solved in isolated local fragments—an oil spill in Santa Barbara or DDT-poisoned mother's milk in Boston.

Like national defense, which would hardly be assured by a submarine base here and anti-missile missile there, it must be viewed and attacked in its ecological entirety.

Nor will we get very far with negative police measures, though they are an essential beginning. Air pollution control ordinances, for instance, can at best have only a limited effect, as long as we keep building more freeways and predicate all our metropolitan planning on further proliferation of combustion engines.

What is desperately needed—and as a matter of the highest priority—is a positive national environment policy. The Congressional Conference at which Sen. Nelson first announced the teach-in brought out some premises on which such a policy must be based.

The conference, perhaps the most constructive I have ever attended, was sponsored by about 100 Congressmen and Senators and organized by the Fund for New Priorities in America (a New York-based organization of business and professional people), which had caleld toegther some two dozen bright people, including scientists and journalists.

The new phrase around which most of the discussion evolved, coined by Aaron J. Teller, dean of engineering and science at Cooper Union, was "looping the system."

It means the continuous reuse and regeneration of the water, fuels and chemicals that we now waste because we consider them garbage.

The garbage, of course, is often poisonous and always ugly and is now piling up to such an extent that it is seriously clogging the American way of life. The richer we get, the more garbage. We have reached, as John W. Gardner so eloquently put it, a state of affluent misery—"Croesus on a garbage heap!"

But the stuff isn't really garbage if you look at it rationally. Teller points out, for instance, that, although we are short of sulfur, one of the most important resources of our economy, we dump 12 million tons of the 16 million tons we consume each year into the atmosphere and into our streams. That is an expensive way to cause a lot of damage. The price of sulfur is up from $20 to $40 a ton because of the shortage.

Abatement laws reduce the damage but not the waste, Teller says. One abatement process removes sulphur oxide from power plant stacks and converts it into a new waste—four pounds of waste for every pound of sulfur removed. A typical power plant will build a mound of 150,000 tons of solid waste every year.

The same is true of attempts to put afterburners into automobiles, which waste enough fuel to provide all the power and heating needs of two cities the size of Philadelphia. The afterburner makes the effluent less toxic. But it still wastes the fuel—12 billion gallons a year.

Instead, men like Teller say, we should reuse that sulfur and that carbon monoxide and all the other materials with which we now foul up America.

Teller says: "Pollution and preservation of natural resources are inexorably intertwined by nature, and the ultimate solution must result in the simultaneous solution of both problems. Such a solution must be based on the reality of the ecological system and not merely by policing a fragment. We must loop the system."

The technical machinery for recycling "wastes," insofar as it doesn't already exist, can be researched and developed as easily and quickly as we researched and developed the technical machinery to get to the moon (and probably a lot easier than getting to Mars). The question is how to start. Teller suggested a system of special taxes and tax incentives. But there wasn't much sentiment for that at the Congressional Conference. It is doubtful that a taxride would have gotten us to the Sea of Tranquility or that a tax-manipulated market economy can buy us a livable environment.

Much of the country is sick of oily depletion allowances and at the same time as the conference in the Old Senate Office Building was hearing some doubt about industrial wisdom, another conference in the Interior Department heard one water polluting industrialist after another tell Secretary Walter J. Hickle that he was all in favor of clean water if only someone else will pay for making it clean.

"We the people," it says in the preamble of the Constitution, must provide not only for the common defense, but also promote the general welfare for ourselves and our posterity.

Building new towns, rebuilding the old cities, new fast trains and rapid transit, new order in the metropolitan areas, recreation and amusement parks and greenbelts are therefore part and parcel of the effort of recycling wastes, and cleaning up our air, rivers and lakes. It's all one effort—the design of a human environment.

This is nothing new. More than 30 years ago, under Franklin D. Roosevelt's New Deal, we started all this with the Tennessee Valley Authority, the National Resources Planning Board and the Greenbelt towns. Only the TVA survived.

Too expensive, say the small minds. But far more dangerous is the lofty computer mind that argues that a national environment program would be too cheap to replace our war program in the national economy. The "Report from the Iron Mountain on the Possibility and Desirability of Peace," which found that only ever-accelerating defense production could sustain our national economy, may have been a hoax. But the line of thinking that an environment program is too cheap for economy-sustaining is not.

The military-industrial complex is not convinced that sulfur recycling, rapid transit, new towns, recreation parks, swimmable rivers and breathable air gives them as much benefit for our cost as their ABMs and SSDs and the rest of their deadly alphabet soup.

This should give next spring's teach-in a lot to talk about.

FOREIGN EDITOR OF LOOK CALLS FOR U.S. DISENGAGEMENT FROM VIETNAM NOW

Mr. McGOVERN. Mr. President, the distinguished foreign editor of Look magazine, Mr. J. Robert Moskin, has recently returned from a trip to South Vietnam and from discussions with key persons involved in the negotiations in Paris.

On the basis of his most recent observations and studies, Mr. Moskin has reached the conclusion that we should immediately begin the full-scale withdrawal of all American forces from Vietnam.

As he puts it:

We have absolutely no sane reason left for killing more than 1,000 young Americans before the end of this year. Our present course—spooning out American lives in an infinitely complex, inscrutable Asian game—is inexcusable.

He adds further:

It really doesn't seem to matter whether we march to the transports today or dribble out before the 1970 U.S. elections or over the next three years. The results will be the same—except in the number of the dead.

* * * * *

No one I talked with—certainly no Vietnamese—believes we should stay in Vietnam. Everyone said we should get out. They differed only on the speed with which we should do so. The most militant—sometimes those most scared for their own skins—said in three years. At a conservative estimate of 100 U.S. dead per week, that means 15,600 more coffins.

* * * * *

The simple truth is that the price of keeping South Vietnam non-Communist has been raised to a level the American people are no longer willing to pay. That is a realistic definition of defeat.

* * * * *

If we learn the lesson of Vietnam—that American power has its limitations—this war may at least mark the end of an era and the beginning of a new, less punitive and more imaginative role in the world for the United States.

Mr. President, I ask unanimous consent that the text of this article, which appears in the November 18, 1969, issue of Look magazine, be printed at this point in the RECORD.

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

VIETNAM: GET OUT NOW

(By J. Robert Moskin)

We should get out of Vietnam. That, bluntly and simply, is the conclusion I bring back from my most recent trip to South Vietnam, plus conversations with leaders on both sides of the negotiations in Paris. I have never been a dove over Vietnam, but I cannot close my eyes to these hard facts: We have failed to win the war in the field. Even with 500,000 men there, we cannot win it.

We have also failed to create a Vietnamese Army that can carry on its own struggle. To try to achieve that long shot will cost more tens of thousands of American lives.

And we have failed to help build a popular or democratic or cohesive government in Saigon. The current regime is a military dictatorship that depends wholly on our presence.

I have never been a Vietnam hawk either, but I respect the judgment of four U.S. administrations that called the fate of South Vietnam vital to our national interest.

Now, President Nixon has reversed this judgment, for which 39,000 Americans have died, 250,000 have suffered wounds and about $100 billion have been spent. In his policy-setting May 14 speech, he said, "We are prepared to accept any government in South Vietnam that results from the free choice of the South Vietnamese people themselves." This means our Government no longer believes that it is in our vital national interest to keep South Vietnam free from Communism.

It is a fair standard that young Americans should not be ordered to die unless their sacrifice is vital to their country.

We have absolutely no sane reason left for killing more than 1,000 young Americans before the end of this year. Our present course—spooning out American lives in an infinitely complex, inscrutable Asian game—is inexcusable.

It is difficult to conceive that the present South Vietnamese Government can survive the end of the hostilities or that South Vietnam, even if we go on fighting, will not be Communist-dominated soon after we leave. It really doesn't seem to matter whether we march to the transports today or dribble out before the 1970 U.S. elections or over the next three years. The results will be the same—except in the number of the dead.

In 1967, I traveled for LOOK along the frontier of American power on the western edge of the Pacific Ocean, and came home convinced that our involvement in the future of Asia is irreversible. That conviction remains. We are not about to scurry back into a Fortress America. Our presence across the Pacific is too massive, our interest too deep. But on this latest trip to Vietnam, I saw that we have overreached ourselves. America's historic westward-driving wave has crested.

No one I talked with—certainly no Vietnamese—believes we should stay in Vietnam. Everyone said we should get out. They

differed only on the speed with which we should do so. The most militant—sometimes those most scared for their own skins—said in three years. At a conservative estimate of 100 U.S. dead per week, that means 15,600 more coffins.

Why is South Vietnam's political self-determination still worth dying for? Because, I was told in Washington and Saigon, we have committed our word, and if we leave precipitously, our word will be dishonored. We will lose face. Three years ago, Secretary of State Dean Dusk gave me the same reason for continuing this war. He called it "the credibility of the American commitment."

The Nixon Administration believes we will be "severely hurt" if we "bug out." It wants "a reasonable solution," praying for reasonableness from Hanoi while recognizing that it is against the Communists' interest to be "reasonable."

But by staying, are we telling Thailand, for example, that if it gets into trouble with Thai or North Vietnamese guerrillas, we would help? No one expects, I was told, that we would then send an expeditionary force to Thailand.

The outcome of this "war of national liberation" has no relevance to the chances of having more such wars in the future. Just about every Asia leader knows we have had enough in Vietnam.

Singapore's Prime Minister Lee Kuan Yew told me, "Vietnam was a bad place to draw the line."

Why then are Americans dying today in Vietnam? To give the South Vietnamese time to prepare to govern themselves and defend themselves. Are these reasonable goals?

We thought they were. We thought the South Vietnamese leaders would use the time we helped buy for them—with American lives and money—to good advantage. But they have not.

You need only go out in the countryside to see the failure of the succession of South Vietnamese governments to win the people's loyalty. Go to the upriver village of Dien Ban, about ten miles south of Danang, our great northern base in Quang Nam Province. You can get in safely only by helicopter. Here, American marines have to wear their flak vests in the road just outside their walled compound. This area has been fought over for years; there is still fighting every day. If the refugees were resettled in the countryside, officials fear, they would join the Vietcong.

I visited Dien Ban with the chief of the pacification program, Ambassador William G. Colby, who ranks Quang Nam 28th out of the 14 provinces in security. Terrorist attacks are heavy: government officials and ordinary civilians are being assassinated, wounded, kidnapped. The province chief, an Army of the Republic of Vietnam (Arvin) colonel, figures that the Vietcong have 900 officials of their own in the province. Our side sends out "Political Recon Units" to terrorize and kill VC leaders.

Destruction in Quang Nam Province has been massive. Five years ago, the province had 557 hamlets; only 308 are left. The number of refugees has jumped in five years from 35,000 to 124,000. (One of every 12 people in South Vietnam is a refugee today.) Less than half of the province's rice land is cultivated. Fishermen may not return to shore after 6 p.m. Anyone walking about in the countryside after dusk without a light is shot automatically. In this province of 540,000 people, only one Vietnamese doctor remains, and while I was there, he was vacationing in West Germany. The people in the villages know nothing about the peace negotiations in Paris.

"Ninety percent of the people would cut our throats if they had the chance," a top American in Quang Nam told me.

Ambassador Colby says, "It's been a war between two apparatus, and the people wish they would both go away."

Warren E. Parker, senior U.S. adviser in the province, describes the situation today: "It's like a Cadillac pushing a Model T through a muddy road with four flat tires with a driver who doesn't know where he's going and doesn't really care."

On an island in the river below the provincial capital of Hoi An sits the Xyuen Long Refugee Camp. It vividly tells part of the story of Vietnam's hopelessness. Here live 3,125 refugees. Only 240 are men. Until this summer, these people all lived on another nearby island that was regarded as a VC stronghold. A swift military sweep scooped up the women and children and a few of the men and transferred them to this desolate sand-dune camp. The rest of the men still are hiding with the VC in the tall grass. Moving their families in this manner made no converts, won no friends.

Yet President Nixon found himself able to tell U.S. troops in Vietnam this summer: "I think history may record this as one of America's finest hours."

In Paris, the diplomats debate semantics over whether troop withdrawals should be called "mutual" or "simultaneous." In Saigon, the politicians, fragmented in dozens of parties, struggle for a piece of the spoils. And out in the countryside—where there is firing every night, assassinations repeatedly, where 12-year-old girls carry rifles—you feel that whatever happens in Paris or Saigon, the word will never get down to the bitter, frightened peasants in the fields and the thatch huts. The struggle, the terror, the dying of this desperate 23-year war—in which more than a million people have been killed and wounded—will go on and on. Says a wise American official there, "You can't negotiate an end of this war. We can only negotiate our way out of it."

In a lovely house in the handsome Paris suburb of Verrières-le-Buisson, Mrs. Nguyen Thi Binh, foreign minister of the National Liberation Front's self-appointed Provisional Revolutionary Government, told me much the same thing in more dogmatic terms. An attractive woman, she left a husband, a boy, 13, and a girl, 9, in Vietnam to head the VC delegation in Paris. Wearing a pale pink *ao dai* and black silk trousers, she sat in a sunny upstairs parlor next to a vase of red roses. Her eyes were hard, but she smiled as she talked: "I am, politicially, a woman who resists American aggression for national independence. I am not a Marxist or a bourgeoisie. I love my country. I long for peace to come back so I can lead a normal life with my children."

But there is no hint of compromise: "If the American Government realizes its erroneous policy of aggression and is willing to end the war of aggression, we are ready to discuss with the American Government putting an end to the conflict. . . . If the American Government obstinately pursues its policy of aggression, the South Vietnamese people are resolved to struggle to victory."

Both sides claim they want elections in South Vietnam, and Mrs. Binh says, "The question is how to organize genuinely free, democratic general elections. The first condition is there must be no presence of American troops of aggression—and without foreign interference.

"I consider the Saigon administration has no competence to organize these elections because if the Saigon administration would organize these elections, they would only give birth to another puppet government.

"The Provisional Revolutionary Government has not asked to organize these elections or put forth election laws, and we [advocate] the formation of a provisional government that will organize the election."

That same day, Nguyen Thanh Le, the thin bespectacled spokesman for the North Vietnamese Government, sat in a room behind a heavily guarded stone wall in the Paris suburb of Choisy-le-Roi, puffed English State Express cigarettes, sipped amber tea from a signeted cup and said, "There can be no genuine free election while 500,000 American troops and 60,000 satellite troops remain in Vietnam." He asked if there could have been free elections in France when it was occupied by Hitler's troops.

I asked him why his government, if its objective is to get the United States out, doesn't agree to a cease-fire and simultaneous withdrawal of U.S. and North Vietnamese troops—and then the Americans would be gone.

Le tapped his right forefinger emphatically on his yellow cigarette box and said slowly, "Let me make it simple. Suppose there is a house, and a robber broke in and wrecks the property and killed the wife and children. The master of the house has the obligation to fight back. Simultaneous mutual withdrawal equates the bandit and the master of the house." He added, "The Johnson war is now becoming the Nixon war. Mr. Nixon is even more cunning, more perfidious."

I asked Le about the fear of many that when U.S. forces get out, there would be a bloodbath, especially of anti-Communist Catholics. He called this propaganda of the ruling class. "There are now in South Vietnam many Catholic patriots and many Catholics and people of other religions who participate in the advisory council of South Vietnam and in the leadership of the NLF and the PRG.

"We have no discrimination against any religion. We unite with every patriot to defend the country. So far, those who previously participated in the puppet administration or army, no matter how their pasts were, if they favor the independence, peace and neutrality of South Vietnam, we will cooperate with them and we welcome them."

In Saigon, Sen. Nguyen Gia Hien, who heads South Vietnam's largest Catholic party and who studied at the University of Montana and Iowa State for six years, disagrees. He foresees a massacre. "I'm sure of it. We are not scared of it. The killing is going on now already, not only soldiers but civilians. They will attack anyone who is not working with them—not only Catholics."

The truth is somewhere between a massacre and a welcome. Certainly, the Communists will try to eliminate their most ardent opponents, and asylum will have to be provided for thousands. But this is a problem that will have to be met whether we get out now or later.

Hien's party, a member of President Nguyen Van Thieu's six-party coalition, the so-called National Social Democratic Front, is strongly anti-Communist and consists mostly of refugees from the North. Hien says it was originally subsidized by the late Francis Cardinal Spellman of New York, and Hien had a three-hour meeting last winter with Terence Cardinal Cooke in New York. Today, Hien accepts the eventual withdrawal of U.S. troops. "Withdrawal of the main American force should take about three years. Give us a period of three years. Two years is too quick for us. If after three years we cannot take care of ourselves we have nobody else to blame. If the Communists take over, some people will fly off, and we will be guerrillas. And it will go on again."

Meanwhile, he presses Thieu for social and land reforms. "We can do more for peace by being more liberal, being better organized, less corrupt."

Truong Dinh Dzu, who ran second to the Thieu-Ky ticket in the 1967 presidential elections and who favored talking peace with the Vietcong and creating a coalition government, was thrown into jail. But there are still some political figures in Saigon who advocate what Le and Mrs. Binh call "independence, peace and neutrality." One such group of intellectuals calls itself the Progressive Nationalist Force. Its chairman is Tran Ngoc Lieng, a 46-year-old lawyer. He told me, "We advocate a complete and immediate cease-fire. We call for a government of reconcilia-

tion that will have the responsibility for holding elections in Vietnam." Such a government, he says, would be composed of non-Communist nationalists of both sides, and all its members would have to be acceptable to both sides. This rather idealistic plan would naturally exclude members of the Thieu government as well as the Communists in the PRG.

Although Lieng will not admit it, he is reportedly close to Gen. Duong Van "Big" Minh, who is perhaps the nearest thing South Vietnam has to a popular politician and who has now been allowed to return from exile in Thailand.

Saigon politics is atomized among northerners, southerners, several factions of Buddhists, Catholics, religious sects like the Cao Dai and the Hoa Hao, neutralists and anti-Communists. Splitting these groups are layers upon layers of individual feuds and historical animosities that go back to the period of French rule. And, above all, most of the politicians are out for their own gain.

Says retired Maj. Gen. Edward G. Lansdale, who knows Vietnamese politics. "It's a family quarrel, and a very savage one, as a family quarrel can be."

The feuding factions seem no longer able to get together before it is too late. But if these anti-Communist and non-Communist nationalists do not unite there is no chance that they can survive in the post war political turmoil.

Sen. Tran Van Don, a former general who led the 1963 overthrow of President Ngo Dinh Diem, says, "The problem is not with the NLF. The problem is inside ourselves. . . .

"I don't believe President Thieu can lead the country alone. He needs to rally the army and the people. It is not enough to rally the United States. But he is very proud. He is very jealous of his power. He wants to keep power for himself. I think he would like to become a dictator."

Responsible estimates of the number of political prisoners being held by the Thieu government range as high as 30,000. Many politicans, editors, intellectuals have been jailed by military courts or by "administrative procedures" at the government's whim. They are held for arbitrary lengths of time. The secretary general of the House of Deputies of the National Assembly, Tran Ngoc Chau, says, "Many times people get kidnapped in the streets and taken to places no one knows about."

A woman secretary in the National Assembly was jailed for a month because she has a relative in the Vietcong. A neutralist politician was given a year in prison for calling an illegal meeting—a press conference. A Saigon University professor's two-year sentence for criticizing U.S. policy was suspended; but ten months later, he was still held on the prison island of Poulo Condore. Publisher Nguyen Lau of the Saigon Daily News was sentenced to five years because he talked with a Vietcong agent. (Thirty newspapers have been closed down.) Such cases do not increase confidence in the possibility of free elections.

U.S. Ambassador Ellsworth Bunker does not condone these actions, but he says, "We have to remember they are at war. The war is right on their own soil—right in Saigon."

A courageous lawyer, Tran Van Truyen, 56, who has represented a number of such political defendants, says, "We have a national assembly, the president of the republic elected by a general election. But I tell you we have a seemingly democracy. . . . This government permits no criticism."

Sen. Tran Van Lam, a leader of Thieu's National Social Democratic Front who became South Vietnam's foreign minister in the recent cabinet shuffle, wants the military courts eliminated and all cases tried in civil courts.

Of an American withdrawal, Lam says: "Personally, I think it would be a very good thing. This must be a Vietnamese war."

The government in Saigon is not a popular government. It is basically an army regime, and the people universally fear the army—any army. Hopes that the cabinet changes in September would bring into the government a broader range of civilian views were dashed by the appointment of a right-wing general as prime minister.

The real power behind this government is in the hands of the generals, and Thieu has constantly resisted American pressure to democratize his methods and broaden his political base. What little has been achieved is mainly the result of American persuasion and arm-twisting. Ambassador Bunker, Thieu's confidant, has by all accounts been superb at this. But it has not been enough. A knowledgeable American in Saigon says of Thieu, "He wouldn't have a chance in hell if the Communists weren't pounding at the gates."

The Vietcong obviously want to avoid an election, even if internationally supervised, that would be managed on the rice-roots level by province chiefs, district chiefs, soldiers and police beholden to Thieu. The common guess in Saigon is that the Vietcong's Provisional Revolutionary Government would win 20 to 25 percent of the vote. But since Thieu won in 1967 with only 35 percent, and a major part of that came from the army and the bureaucracy, he has little margin of safety. With the PRG putting up a common front and the Saigon politicians divided, the political struggle threatens to be as hopeless as the military one has been.

Since a political solution that will leave South Vietnam non-Communist is so iffy, it's up to the army, the Arvin, to hold off the Communists. Crucial is the speed with which the Arvin can replace the GI's. The process of preparing the Arvin to take over the fighting is what we mean by "Vietnamization."

U.S. officers now admit that one of the great failures of our military effort has been our neglect of the Arvin. The result of this—plus the Arvin's war weariness, corruption, low pay and the killing off of many of the best officers—is an army that is incapable of defending its country, even if given all the benefits of the United States technology.

Says one American general in a position to judge, "They'll be reasonably self-sufficient in time—three years from now." The question is, can we wait?

When Vietnamization started, no one expected to prepare the Arvin to handle the North Vietnamese Army. The hope was that, in time, it could stand up to the Vietcong. Now, the Nixon Administration dreams of preparing the Arvin to cope with the NVA, too, as a possible alternative to mutual withdrawal.

Of course, even if a cease-fire or peace were arranged and/or American forces withdrawn, there is no way to insure against reinvasion from the North in overwhelming force months after we go.

Ironically, the greatest American hero of the war, Gen. William C. Westmoreland, who commanded our forces there and now is the U.S. Army's Chief of Staff, has become a scapegoat in Vietnam. Some American officers who want to keep fighting today claim that Westmoreland fought the war all wrong, "clobbering everything in sight" in World War II style with big unit battles and massive air support, while the enemy was fighting a semi-guerrilla war.

The military public relations people's new hero is Gen. Creighton W. Abrams, the able current U.S. military commander, whom they love to call "The Spoiler." Abrams' approach is not to wait until the enemy has massed but to hit him as he is preparing his battlefield and gathering his forces from his headquarters safely out of reach in Cambodia.

Abrams told me, "There is a limit to what the United States can do. The solution here has to be Vietnamese." He adds, "I'm in favor of taking out some American troops. There is such a thing as helping too much."

Yet, the fact remains that the Arvin continues to need a great deal of help. It has three main problems. First, it is hated and feared by its own people. One American official in the field tells how a Vietnamese Ranger battalion, supposedly an elite unit, recently went through a village, stealing chickens and belongings. He says with disgust, "You don't make friends that way."

Second, a tremendous effort is needed to train the Arvin's officers and men to handle complex weapons and communications systems, from radios to helicopters. As an American officer told me sardonically, "We'll know we're making progress when we can get a phone call to the Arvin straight."

Third—and most urgent of all—is the problem of leadership. American observers say the Vietnamese, when properly motivated and led, can be excellent soldiers. But the Arvin's officers and even noncoms are too often personally overambitious and corrupt.

All in all, I return from Vietnam this time with a sense of hopelessness, deeper perhaps than the personal despair expressed by Look correspondent Sam Castan before he was killed in combat there in 1966.

Politically and militarily, the South Vietnamese are still, after all these years, not yet prepared to take care of themselves. It would cost more thousands of American lives to give them any chance to do so. Now that our Government no longer judges it vital to our security that South Vietnam not go Communist, what justification is there for further American sacrifices?

The simple truth is that the price of keeping South Vietnam non-Communist has been raised to a level the American people are no longer willing to pay. That is a realistic definition of defeat.

If we learn the lesson of Vietnam—that American power has its limitations—this war may at least mark the end of an era and the beginning of a new, less punitive and more imaginative role in the world for the United States.

RELATIONSHIP BETWEEN AMERICAN BAR ASSOCIATION AND PRESIDENT NIXON

Mr. SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Bernard G. Segal, president of the American Bar Association, to the Washington Evening Star.

The letter is in answer to a column entitled "ABA Waving Nixon Team Pennant," written by Mr. Lyle Denniston, and published in the Star on Friday, September 19, 1969.

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

AMERICAN BAR ASSOCIATION,
Chicago, Ill., October 14, 1969.

Mr. LYLE DENNISTON,
The Evening Star,
Washington, D.C.

DEAR MR. DENNISTON: My attention has been called to your recent *Washington Close-Up* column in which you commented on the relationship between the American Bar Association and the administration of President Nixon. I am responding in the interest of fairness and accuracy, because I believe that in the article you drew certain unwarranted conclusions, and that the article, and especially the headline, created the unjustified impression that the American Bar Association had departed from its traditional position of nonpartisanship.

The facts that this Association is adhering undeviatingly to a strict policy of nonpartisanship. It is true that its work in the public service sphere has expanded greatly in the past fifteen to twenty years, for example, in behalf of the effective administra-

tion of justice including judicial selection, crime control, electoral reform, and legal services to the poor. There is an inevitable convergence of interests of the federal government and the national organization of the legal profession in these and other areas of common responsibility.

This Association has worked closely and harmoniously for many years with successive national administrations of both parties. This has been particularly true in the last four administrations—two Democratic and two Republican. The pattern has been one of cooperative action in problem areas of mutual concern to the legal profession and the government, and at no time has there been any thought or suggestion of partisan purposes on the part of ABA.

The more than 140,000 members of the Association represent every shade of political opinion. Partisanship has no place either in the objectives or in the policy-making of the Association. Throughout its history the officers, members of the Board of Governors, and members of the House of Delegates have come from both major parties.

Your article is, of course, correct that President Nixon has appointed to responsible government posts a large number of lawyers, many of whom were drawn from among the thousands of ABA members active in the Association's professional and public activities. But this has also been true of prior Presidents. Historically, Presidents have relied heavily upon legally trained appointees in filling important executive and administrative posts and as the membership of our Association has continued to grow—currently at the rate of approximately 1,000 per month—more and more of these have come from the ranks of our leaders. In the Congress, a count of a few years ago showed that sixty-seven of the Members of the United States Senate and a majority of the Members of the House of Representatives were lawyers, many of them active in the organized Bar.

We were most appreciative of President Nixon's telegram to the Annual Meeting of the American Bar Association in Dallas, in which he praised the public contributions of the Association. But I believe that the conclusion you draw from the telegram is conclusively negated by the fact that similar messages were also received in person at prior Annual Meetings from President Eisenhower and President Johnson and by telegram from President Kennedy.

In 1955, General Eisenhower in addressing the Association in Philadelphia said:

"To the officers and members of the American Bar Association, I express my grateful acknowledgement of the assistance they have rendered as a public service in aiding me and my trusted advisers in the review of professional qualifications of individuals under consideration for judicial positions. You have helped secure judges who, I believe, will serve in the tradition of John Marshall."

He added his praise for the initiative the ABA had taken on an international basis in the search for world peace under law.

In 1961, a telegram to the ABA Annual Meeting, President Kennedy said:

"I want to express my personal appreciation for the useful assistance which the judiciary committee of your Association . . . is rendering to the Attorney General in evaluating the qualifications for candidates for judicial appointment."

He commended the Association for its "valuable studies in the field of equal justice and equal treatment for minority groups, organized crime, and juvenile delinquency", expressed confidence that it would "rise to these challenges and these opportunities", and asked it "to continue the fine work of this Association in its activities with lawyers throughout the world toward promoting increased respect for law in international matters."

On May 21, 1968, President Johnson, in a prepared statement read to the Board of Governors and the Standing Committee on Federal Judiciary at a meeting in the White House, first thanked the group "for what you are doing for your country"; then spoke of the "very rewarding association" with the Standing Committee on Federal Judiciary whose suggestions and judgments on potential nominees to the Federal Bench, he said, he gave "the closest attention, and the most serious consideration", and added:

"It is very clear to all of us here that you have taken your responsibilities with the serious concern that they deserve, striving to be fair, striving to serve the law and the country and the President."

After listing a whole series of matters in which he said that he had received effective objective help of the ABA, the President concluded:

"I have drawn from you both strength and comfort. Your counsel has been wise and your attitude has been cooperative. I want to pay you all the tribute that I know how to pay this morning, and say again, thank you very much for what you have done."

You correctly reported that I do not regard the assessment of the qualifications of persons under consideration for nomination as Federal judges by the ABA Committee as a "veto power". The Committee never proposes anyone for judicial appointment. Its sole function is to investigate and report to the Department of Justice on the qualifications of those persons whose names are submitted to the Committee by that Department. Almost always, more than one name is submitted for each judicial vacancy that occurs. The Association acts in its professional capacity as the conduit for the opinion, sifted and weighed and objectively appraised, of a cross-section of the judges and lawyers of the community in which the person under investigation practices or presides as a judge. The strength of the Committee is the quality and the fairness of its investigation and reports.

You state that the present administration has given the ABA Committee "a more certain clearance authority than it has ever had before." I point out that in the administrations of Presidents Eisenhower, Kennedy, and Johnson, every Supreme Court appointment beginning with that of Mr. Justice Brennan was submitted to the Committee. For reasons which he stated at length, first at a press conference, and later at a meeting with the ABA Board of Governors and the ABA Judiciary Committee, President Nixon decided to discontinue the practice of his three predecessors in this respect. In every other regard the system is functioning highly satisfactorily; the appointments of judges in the United States Courts of Appeals and District Courts have, during the present administration, been of a very high order; and the cooperation of the Attorney General and Deputy Attorney General, and their staffs, with the Committee has been excellent But the system is not operating any differently in any significant way from that in which it has been operating at least since 1957.

Referring to the creation by the Association in August of the Commission on Campus Government and Student Dissent, the article states that this step was taken "to help get the administration 'off the hook' on the problem of campus unrest." Actually, genesis of the program goes back to a period before the election of President Nixon. As early as May 1968, in an address I delivered at the Annual Meeting of the Atlanta Bar Association in Atlanta, I emphasized the obligation of the legal profession and particularly the American Bar Association to become active in this very matter and expressly urged that the ABA had a duty to make the kind of study and investigation that is now under way. I spoke to the same general effect in other addresses around the country, in press conferences, and in television interviews. You state that my purpose in appointing my predecessor as ABA President, William T. Gossett, as Chairman of the Commission, was to insure that the Commission "would have prestige." I agree that Mr. Gossett brings prestige to the project as do the other members of the Commission. The reason I selected Mr. Gossett, in addition to my confidence in his ability, was that he, too, had demonstrated his belief in the urgency and usefulness of this type of project and had spoken on numerous occasions to this effect.

In conclusion, over a period of years the activities of the Association have been directed increasingly to meeting the public responsibilities that are within the competence of lawyers. There is much more that needs to be done. Obviously, these activities entail cooperation with Federal agencies working on these same problems. The Association's cooperation with the present administration is comparable in kind and degree with that extended to its predecessors.

As a reporter of high professional stature and integrity, you will, I am confident, welcome these observations offered for your information and for the record.

Sincerely yours,

BERNARD G. SEGAL.

ADDRESS BY SENATOR YARBOROUGH BEFORE NATIONAL FEDERATION OF LICENSED PRACTICAL NURSES

Mr. TYDINGS. Mr. President, on September 29 of this year, the distinguished Senator from Texas (Mr. YARBOROUGH) was the keynote speaker at the 20th Anniversary Convention of the National Federation of Licensed Practical Nurses held in Chicago, Ill. It was an excellent address, one which commended the licensed practical and vocational nurses of the Nation for the invaluable services they are providing.

In addition Senator YARBOROUGH dramatized the urgent need to provide adequate incentives to induce more women to enter the nursing profession. As the Senator's remarks pointed out, by 1975 we will experience a grave shortage of nearly a quarter-of-a-million practical and vocational nurses in America.

Mr. President, I strongly commend the address to all Americans who, like myself, are deeply concerned by the medical manpower shortages developing in this country. Therefore, I ask unanimous consent that excerpts from Senator YARBOROUGH's speech be printed in the RECORD.

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

BEDSIDE NURSING: KEY TO EXPANDED HEALTH CARE

(By Senator RALPH W. YARBOROUGH)

(Excerpts from speech of Senator Ralph W. Yarborough at the National Convention of the National Federation of Licensed Practical Nurses, Chicago, Illinois, 10:30 a.m. on Monday, September 29, 1969)

Madam President, Fellow Americans: Congratluations to your Federation of Licensed Practical Vocational Nurses on your 20th Anniversary Convention. From a small beginning a fifth of a century ago, you have become a strong national organization. But ten years from now, you will look back on your present organization as a small one. You have now proven yourselves, your value, and the great need of the country for your trained skill. Schools have opened to you, hospitals, nursing homes, all kinds of health

centers cry out for your aid, and you meet today to prepare for a far, far greater score of years, than this very important milestone you mark today.

A rising demand for medical care has made this "A Time for Action" for all medical professions, and I commend you for making this the theme of your convention.

This growing need for care and facilities is already producing changes in the organization of health care, and will cause greater changes in the future. One change has been an expansion of the unit of care from the hospital alone to extended care, home care, outpatient care, rehabilitation, psychiatric and social services, prevention, diagnostic services, and health education.

No longer does "medical care" mean only urgent, emergency treatment at a hospital. Today, that is only one element. Today, we are moving rapidly into treatment of chronic illnesses, especially of the elderly. Alcoholism is finally receiving the attention it deserves as a chronic illness. Out-patient care, clinics, home care and nursing homes are developing as alternatives to a hospital stay. In the case of home care, outpatient care, nursing home care and other new types of care in addition to the conventional hospital, you are the first line of defense against the charge of no help for the ill and afflicted.

Aside from a shortage of facilities, the limiting factor in expansion of all these health services is the shortage of trained manpower. These forms of care depend heavily upon the bedside nurse. That is what you are. Your numbers can multiply many times over the services of one doctor, dentist, and registered nurse. That is why the practical nurse or vocational nurse has become a key to more and better health care.

SHORTAGE OF MEDICAL MANPOWER

We need 50,000 more physicians than we now have, and 80,000 more registered nurses. But hospitals are the largest employers of practical or vocational nurses, and they need 40,000 more to provide the best care. The need for practical and vocational nurses in extended care facilities is even more dramatic. In 1966, they employed 33,600 practical nurses and needed almost 10,000 more. That is a current shortage of some 50,000 practical and vocational nurses needed now. The Bureau of Health Manpower in the Public Health Services estimates that by 1975, the shortage will reach 245,000 of practical and vocational nurses. Yours is a profession where there will never be unemployment; there is a permanent shortage of people to fill a growing number of jobs.

For too long, the field of medical manpower has ignored the education of practical nurses. But recently Congress has awakened and provided for them in vocational education, and 27,000 were graduated from vocational classes in 1968 from 1,150 identifiable courses of practical or vocational nursing. I am proud that in my State of Texas, 22 of our junior colleges have programs of vocational nursing, as it is called under the laws of Texas, where vocational or practical nursing is given status under the law.

Your role in the health team will also come under study when my Health Subcommittee of the U.S. Senate of which I have the honor to be Chairman, takes up manpower training in the allied health manpower education program.

NEED FOR PROFESSIONAL RECOGNITION AND IDENTITY

Another point at which your identity needs to be recognized is in the Federal Civil Service. Present designation of "nursing assistant" by the Civil Service Commission is undergoing revision. A tentative draft of a new job standard for a "patient care technician" is under study. But both terms avoid a clear description of licensed practical or vocational nurses, and lump them with unlicensed people. The Commission informs me that the whole matter is still being explored. By recognizing the existence of your vocation, the government could help advance your standing as a full partner in the medical team. The growing importance of your profession demands that the U.S. Civil Service Commission recognize your profession and give it the status it deserves, just as colleges, junior colleges, hospitals and community colleges and the medical profession already have. The Civil Service Commission should catch up with the rest of the country.

Continuing education in nursing is another means of upgrading your vocational standing. Practical nurses licensed by waiver need to be brought up to full credential status so they can serve as charge nurses in Medicare institutions. In its report last year, the Senate Finance Committee urged the Secretary of Health, Education and Welfare—"to encourage and assist programs designed to upgrade the capabilities of those who are not now sufficiently skilled to qualify in health occupations now in short supply, but who could perform adequately with relatively little additional training."

Pursuant to this, the National Licensed Practical Nurse Education Foundation has a $27,000 grant from HEW to study means of continuing education for practical nurses. One of its major purposes is to help bring waiver licensed Practical-Vocational Nurses to full credential status.

All of us who devote time and thought to improving medical care need to give more time and thought to expanding your numbers, enlarging your capabilities, and using your dedication and knowledge more effectively. The sick and suffering cannot do without you.

President Kennedy said in 1961:

"As long as people are stricken by a disease which we have the ability to prevent, as long as people are chained by a disability which can be reversed, as long as needless death takes its toll, then American health will be unfinished business."

None of us has a more enobling service to contribute than our efforts to finish this unfinished business. To care for the ill, the sick, the afflicted and the disabled is the greatest charity. Nursing is the noblest profession, calling for greater compassion, concern, and tender care than any other. You have chosen God's work on earth as your own. The care you give will return to you riches of the soul and the spirit in addition to the material reward for the time expended. But your service with your soul and spirit is something more precious than jewels and money, something not purchaseable, and that is the service which sets your profession apart from all others. I honor your dedication.

God Bless You.

RECENT VISIT TO UNITED STATES BY PRIME MINISTER GOLDA MEIR, OF ISRAEL

Mr. MURPHY. Mr. President, I am certain that citizens across America were pleased, as was I, by the cordial welcome which our Nation gave to the Prime Minister of Israel, Her Excellency Golda Meir, during her recent visit to the United States, as well as by the obviously constructive results of that visit in contributing to a sincere understanding between our two nations and to a peaceful solution of the problems in the Middle East.

Because we can be proud of the knowledgeable and dignified approach of our President in his meetings with Mrs. Meir, I was deeply gratified to see in the Washington Post on October 28 an advertisement thanking the President for his efforts. The advertisement contains a resolution by the board of directors of the Jewish Federation-Council of Greater Los Angeles. Believing that many Americans will join in the expression of that advertisement, I ask unanimous consent that it be printed in the RECORD.

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

THANK YOU, MR. PRESIDENT

WE COMMEND YOU FOR YOUR EFFORTS TO BRING THE MIDDLE EAST NATIONS TOGETHER IN SEARCH OF PEACE

Resolution

Whereas, the Prime Minister of Israel, Her Excellency Golda Meir, has now completed her official visit to the United States for historic and meaningful discussions with President Richard M. Nixon, and

Whereas, President Nixon, by the cordiality of his reception of the Prime Minister of the State of Israel, and by his expressed sympathy for the attainment of Israel's legitimate aspirations, has evidenced his deep concern for the continued development of a secure and progressive State of Israel which seeks peaceful coexistence with her neighboring States,

Now therefore be it resolved: that the Board of Directors of the Jewish Federation-Council of Greater Los Angeles, on behalf of its organized Jewish Community, does hereby express its sincerest appreciation to President Richard M. Nixon, and warmly commends his Administration for its efforts in bringing the nations of the Middle East together in order to achieve a just and lasting Peace.

As concerned Americans we are thankful that President Nixon is dealing with the volatile problems of the Middle East in a positive manner. His determination to help the nations in the area make peace among themselves will make the ultimate peace a lasting one and will never call for committing one American soldier to the task of preserving freedom. President Nixon's bold stance makes America a true leader for world peace.

Signed by the following:

Ammon Barnes, Beverly Hills, California.

Dr. Eliot Corday, Beverly Hills, California.

Theodore E. Cummings, Los Angeles, California.

Stanley Goldblum, Beverly Hills, California.

Taft B. Schreiber, Universal City, California.

Samuel Schulman, Los Angeles, California.

FORMER DEFENSE DEPARTMENT OFFICIAL POINTS THE WAY OUT OF VIETNAM

Mr. McGOVERN. Mr. President, yesterday's Washington Post contains a most perceptive and valuable analysis of our current dilemma in Vietnam.

Mr. Townsend Hoopes, who served in the Defense Department from January 1965 until February 1969, the period which embraces the major escalation of the war in Vietnam, has authored a new book entitled "The Limits of Intervention."

The Washington Post has wisely reprinted the epilogue of this book, setting forth Mr. Hoopes' views on our current problem in Vietnam and the alternatives that are ahead of us. The course which he recommends is one that I have tried to spell out as best I could for many months. It calls for the disengagement of American forces on a much more rapid time schedule than the administration now seems to have in mind.

I ask unanimous consent that Mr. Hoopes' article be printed at this point in the RECORD, and I earnestly hope that every Member of the Congress will read it.

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

OUR ONLY OUT IN VIETNAM

(By Townsend Hoopes)

(NOTE.—Hoopes served in the Pentagon from January, 1965, to last February, first as Deputy Assistant Secretary of Defense for International Security Affairs and then as Under Secretary of the Air Force. The following is excerpted from the epilogue to his new book "The Limits of Intervention," published by David McKay Co., and is reprinted by arrangement with David McKay Co., Inc. 1969 by Townsend Hoopes.)

In the final 10 months of the Johnson administration—from April 1, 1968, to Jan. 20, 1969—the Vietnam policy struggle between rival coalitions within the U.S. government continued almost unabated, even though the decision of March 31, had they been applied by a President who meant what he said, ought to have resolved it in favor of the moderates. As it was, the fact that the American people promptly endorsed the decisions did put new limits on the debate.

To Washington's surprise, North Vietnam responded quickly and affirmatively to President Johnson's new call for negotiations, accepting the halfloaf of a partial bombing halt as an adequate basis for preliminary talks while adding the significant caveat that the initial meeting could have only one purpose—to determine how and when the bombing of North Vietnam was to be totally stopped. Because Hanoi's acceptance included the essential element of face-to-face contacts, the administration was hardly in a position to refuse, and so had to take the caveat as well.

But there was immediate evidence of confusion and thinly veiled discord inside the administration. Secretary of State Dean Rusk and Presidential Assistant Walt Rostow tried to slow down and, if possible, avoid altogether the kind of initial talks proposed by North Vietnam. Rusk, who was in New Zealand attending a closed meeting of SEATO foreign ministers at the time of the President's speech, reportedly told his colleagues that neither the neutralization of Vietnam nor a coalition government was a workable solution. Returning promptly to Washington, he lost no time in making evident his general distaste for the enterprise, emphasizing the limited purpose of the talks and denigrating the possibility of a total bombing halt.

MUSICAL CHAIRS

On April 3, the United States had offered Geneva as the site for initial talks. North Vietnam, in its response, had proposed the Cambodian capital of Phnom Penh. Although the President had repeatedly said he would "meet anywhere, at any time"—most recently in his speech of March 31—the administration quickly refused Hanoi's proposal.

On April 9, the United States proposed Vientiane, Rangoon, Djakarta and New Delhi. On April 11, Hanoi proposed Warsaw, which had been the site of desultory but undisturbed U.S.-Chinese diplomatic exchanges for a number of years. This, too, the Administration refused. When Hanoi reiterated its preference for Warsaw and lobbied in the world press, Washington thereupon trotted out a further counterproposal consisting of an additional 10 cities: Colombo, Tokyo, Kabul, Katamandu, Rawalpindi, Kuala Lumpur, Rome, Brussels, Helsinki and Vienna. On May 3, North Vietnam proposed Paris.

By this time, the matter had become a travesty, with the American and foreign press charging the U.S. government with "bad faith" and "quibbling." The unedifying spectacle of the American President chivying Hanoi on a location for the talks after having told the world several dozen times that he set no conditions on the time and place of negotiations was painful in Defense Secretary Clark Clifford's memory.

He has opposed Phnom Penh on the grounds that it afforded inadequate communications facilities, but he saw no objection to Warsaw and told the President so. When Paris was finally agreed upon, the President took credit for it and lectured Clifford as follows: "You've got to stand up to the Communists and not give in even on minor points; that's how we got Paris. You wanted to give them Warsaw, etc." Clifford got that LBJ speech at least ten times, but declined to respond because the issue seemed to him *de minimus*.

This fight over where to talk was merely the opening skirmish in the renewed conflict between the opposed coalitions within the administration. The President's speech had brought momentary harmony based, it was apparent in retrospect, on the assumption of the hard-liners that Hanoi would give a negative response, thus creating a situation in which all issues dealt with in the reappraisal could be reopened.

Emerging from a Senate committee hearing in mid-April, Rusk said he had seen "no evidence of restraint" by the other side and emphasized that infiltration was continuing "perhaps at an increasing rate." Gen. Maxwell Taylor was soon sending "innumerable memoranda" to the President telling him how serious were the military consequences of the partial bombing halt. Rostow and the Joint Chiefs of Staff were taking a similar line.

In early June, when enemy rockets were falling again on Saigon, Ambassador Ellsworth Bunker urged retaliatory bombing attacks on Hanoi. In the other side, Clifford in Washington and Averell Harriman and Cyrus Vance in Paris pressed hard for a total bombing halt and thus a a beginning of substantive talks.

The hard-liners were soon arguing that Hanoi's affirmative response showed that North Vietnam was all but beaten; that its coming to Paris reflected the crushing military defeats administered by American firepower in the post-Tet period. With a little more delay and stonewalling so the argument ran, and with steady military pressure, the United States could soon have Hanoi over a barrel and could thus negotiate on far more favorable terms.

That the renewal of these discredited arguments had any force at all was attributable to the fact that the President himself remained instinctively disposed toward military victory and opposed to compromise. In March, he had been reluctantly persuaded of the need to take dramatic steps toward deescalation and disengagement by the arguments of Clifford, Dean Acheson and others and by the irresistible pressure of events. In April and May, it was clear that his conversion had been, at most, intellectual but never visceral; his continued susceptibility to hard-line arguments during the spring, summer and fall amounted to serious backsliding from the major implications of the March 31 decisions and produced an official U.S. posture of acute ambivalence.

He understood that domestic political realities would not sustain a policy of renewed escalation of the bombing or any significant reinforcement of U.S. ground troops, but he remained receptive to the idea that the enemy could be worn down by sustained military pressure even within the newly established limits on resources.

The Johnson administration thus never acquired the necessary unity to redefine the U.S. political objective in Vietnam in the context of the post-Tet realities. Until October, when Clifford, Harriman and Vance succeeded in bringing off a total bombing halt, the bombing effort was not really curtailed but only geographically rearranged; statistically, there was an intensification. On the ground, Gen. Creighton Abrams made a number of sensible adjustments, including a greater emphasis on protecting the populated areas and undertaking fewer cavalier sallies to the uninhabited borderlands, but these changes hardly constituted a dramatic new strategy born of the knowledge that search-and-destroy had failed. They reflected primarily the fact that additional forces could no longer be obtained merely by telephoning the White House.

A RELUCTANT HALT

The President told Clifford in the autumn that his primary purpose was now to leave his successor with "the best possible military posture in Vietnam." Clifford argued that, for the sake of the President's ultimate standing before the bar of history, he ought to want something much broader and more positive, namely, to leave his successor "an ongoing, substantive negotiation firmly committed to ending the war and reducing the American involvement in Vietnam."

The President was finally willing to accept a total bombing halt in late October, but in November and December he was still listening to the siren song of those who clung tenaciously to the prospect of resolving the conflict by military pressure. He was listening despite evidence that the enemy's determination to fight seemed unimpaired and that his capacity to regenerate his forces remained significant.

As the Administration left office, therefore, ambivalence remained at the very heart of its Vietnam policy. Were we in Paris to negotiate a political compromise on the clearly accepted premise that military victory was infeasible? Or were we there to stonewall Hanoi in the belief that, given enough time, we could grind out something resembling a military victory in South Vietnam and thus avoid the dangers, and the further affronts to our prestige, that would attend a compromise political settlement? There were no clear answers to these questions.

At this writing (early August, 1969), the answers to these questions are only a little clearer. President Nixon is on record as believing there can be no military solution, but large murky patches remain on the fabric of American policy in Vietnam. Perhaps understandably, Mr. Nixon has insisted on going through the whole painful learning process at first hand; in any event, he has thus far declined to come down firmly on a clear-cut course of action and has maneuvered skillfully, yet with increasing evidence of improvisation, to avoid a fateful choice.

The choice, basically, is between trying yet again to strengthen and salvage the Thieu regime for the sake of a gradual, far from complete but hopefully honorable American disengagement from a war that might, in such circumstances, continue for years to come; and casting that government aside for the sake of a fairly quick, probably unpalatable political settlement which would, however, permit—indeed require—the prompt and complete withdrawal of American forces. The Nixon administration has not yet bitten the bullet; in fact, it seems to be pursuing a deliberately hedged policy of carrot and stick.

The carrot elements are embodied in the formal U.S. proposal of May 14 that the "major portion" of all foreign forces in South Vietnam be withdrawn within 12 months; the remaining "non-South Vietnamese forces" would thereafter retire to base areas, thereby creating a de facto cease-fire and setting the stage for international supervised elections. The stick elements are embodied in a supposedly tough alternative aimed at threatening the enemy with the grim prospect of interminable war through a combination of strengthening the South Vietnamese army and withdrawing enough

U.S. forces to assure that American public opinion will support the continued participation of the remainder for an indefinite period. This alternative is known as "Vietnamization."

The Nixon administration appears to be experimenting with various combinations of carrot and stick—tabling presumably generous offers in Paris while exerting "maximum military pressure" in South Vietnam in an effort to enlarge the area of Saigon's control before the onset of significant U.S. force withdrawals.

The result thus far is continued stalemate in Vietnam, and deepening deadlock in Paris. Such a result should not be surprising, for, unfortunately, this approach confronts the fundamental weakness of the U.S. bargaining position at this stage of the war.

WAITING US OUT

The Nixon offer of mutual withdrawal plus elections may indeed be generous by past standards, but it depends for success on reciprocal action by Hanoi. But Hanoi gives no indication that it feels the need to make significant concessions (like promising to withdraw its forces) in order to achieve large-scale U.S. troop withdrawals or avoid resumption of the bombing against North-Vietnam.

This position is no doubt based on Hanoi's quite accurate assessment that, nearly 18 months after Lyndon Johnson's proclaimed de-escalation, American public opinion more than ever favors and expects a liquidation of the U.S. war effort (I would go so far as to say that the American people have just about written off this war). The evidence strongly suggests that Hanoi is not going to reciprocate but intends simply to wait us out.

The alternative of "Vietnamization" suffers from similar frailties, for in truth its viability as a threat to the enemy depends far less on augmented material support for Saigon's army than on the long-term retention of significant U.S. combat power (air and ground). Effective "Vietnamization" would probably pose a genuinely bleak prospect for the enemy notwithstanding his determination to return, if necessary, to a strategy of low-level, protracted guerrilla war.

Here again, however, the political situation in the United States palpably deprives this Nixon alternative of any real credibility. Those who still cling to the hope of vindicating the strategy of victory-through-attrition have of course warmed to the concept of "Vietnamization," but they have assumed is would involve a very gradual and carefully calibrated U.S. withdrawal—say 50,000 men per year. Such an assumption seems, however, to stand on a gross misreading of domestic political feasibilities, as President Nixon himself has now substantially conceded.

In his press conference of June 19, when asked what he thought of Clark Clifford's proposal to bring home 100,000 troops in 1969 and all of the remaining combat ground forces by the end of 1970, he expressed the "hope" that his administration could beat the Clifford schedule.

The reply, whether deliberate or accidental, sowed consternation in Saigon and among the supporters of "Vietnamization" at home, for it seemed to make the real situation crystal clear to Hanoi. It has produced stiffened North Vietnamese intransigence in Paris and a protracted lull on the battlefield—a lull rather openly designed to induce larger and faster U.S. troop withdrawals and thus to deprive Mr. Nixon's "tough" alternative of its credibility.

At this writing, then, the United States remains in a tenuous position; its strategy has not succeeded, but the national leadership has thus far refused to accept either the consequence of failure (which is defeat in some degree) or the need to devise a new strategy for carrying on the war. It is very late in the day—much too late—to try a new and different military strategy. But even if it were not, "Vietnamization" would seem an unpromising horse to bet on.

For, so far as one can tell, such a strategy would involve essentially more of the same: further enlargement of the already too large and cumbersome South Vietnamese army, organized in conventional formations, heavily armed with artillery, equipped with helicopters, supported by large-scale U.S. tactical air power and sent out to vindicate the Westmoreland doctrine. The painful trials and frustrations of Vietnam have, momentarily at least, exhausted the intellectual capital of our military leaders and brought American military doctrine to a conceptual impasse. So we limp along, Micawber-like, hoping for something to turn up in Paris or Saigon.

A RISKY COURSE

Beyond the immediate tactical weaknesses of the Nixon administration's apparent posture, there are, I believe, inherent dangers in a policy of substantial, but less than total, withdrawal from Vietnam. Such a policy was perhaps seriously proposed for the first time by McGeorge Bundy in October, 1968. More recently, Clark Clifford argued for it in the July, 1969, issue of Foreign Affairs.

Bundy argued that a withdrawal down to about 100,000 men was now possible without the need to lose "what has been gained in the strategic sense." Clifford argued that withdrawal of all U.S. combat ground forces by the end of 1970 would "be consistent with continued overall military strength"; indeed, he thought it might confront Hanoi with the painful possibility that Saigon could, "with continued, but reduced American support, prove able to stand off the Communist forces."

Yet the idea that the United States can resolve its difficulties in Vietnam through the progressive, but still partial, unilateral withdrawal of its forces rests on two crucial assumptions: (1) either Saigon can really supply substitute power equal to that of the departing U.S. forces or (2) the present and future situations in South Vietnam can be managed at a lower level of aggregate Allied power than has been required in the past.

Clifford has no trouble with the second assumption, arguing cogently that present Allied power is excessive if the aim of military victory is excluded. Nevertheless the two assumptions are in a real sense interdependent, and both are inherently fragile. The first requires a dramatic improvement in the South Vietnamese army that we have not in fact seen over the past seven years; the second requires a belief not only that the North Vietnamese are much weaker than they have been but also that their weakness is now a permanent condition.

Should the U.S. government pursue a course of partial withdrawal in Vietnam while leading the American public to believe all will end well, I am afraid a number of unpleasant shocks, surprises and politically dangerous consequences would arise to confront us. For at best, such a course is a prescription for interminable war; partially disguised by the declining level of U.S. participation, it would in fact require our country to sustain a continuing burden of war casualties and heavy dollar costs that would become explicitly open-ended as we leveled off our forces at 100,000 men or thereabouts.

Sooner or later, and probably sooner, the American people, would reawaken to the fact that they were still committed to the endless support of a group of men in Saigon who represented nobody but themselves, preferred war to the risks of a political settlement and could not remain in power for more than a few months without our large-scale presence. These things are predictable because the Thieu regime is both self-serving and wholly unrepresentative; its strong anticommunist stance (which our support has both nurtured and hardened) bears little or no relation to the vaporous, myth-filled, unideological, village-oriented political sentiments of the vast majority of people who inhabit the noncountry of South Vietnam.

At worst, the course of partial withdrawal would produce a progressive erosion of the military situation in Vietnam, leading downward to a time when we faced the prospect of outright defeat. With U.S. strength reduced to 100,000 men, with no corresponding enemy reduction and with no dramatic improvement in the South Vietnamese government and army developments could seriously threaten the safety of our smaller forces and thus pose the same hard question we faced in 1965—to escalate or liquidate. Were the United States to face, several months or years from now, the serious prospect of military defeat in Vietnam, I believe that fact would strain our capacity for wise choice beyond the breaking point, and that any decision in such circumstances could only further divide our people and imperil our political process.

There is, unfortunately, an unbreakable interconnection between victory and the avoidance of defeat in the Vietnam situation. You really must have the first in order to ensure the second; or, as others have said, if guerrilla insurgents are not totally defeated, then they win. If victory is not possible, defeat in some degree (and by whatever name you arrange to call it) is not avoidable. A concept of partial unilateral withdrawal that tries to have it both ways—to forswear victory yet avoid defeat—is an inherent contradiction. It won't work.

FOR COMPLETE WITHDRAWAL

Deliberate, orderly but complete withdrawal has become, in my judgment, the only practical course open to the United States if we are to restore our foreign policy to coherence, regain our psychological balance, alleviate the deep-seated strife in our society and reorder our national priorities in ways that will win the support of a large majority of our own people. Vietnam is not, of course, the only source of division in America today, but it is the most pervasive issue of our discord, the catalytic agent that stimulates and magnifies all other issues. In particular, there can be no real truce between the generations—no end to the bitterness and alienation of even the large majority of our youth that is neither revolutionary nor irresponsible—until Vietnam is terminated.

A major premise of the Johnson administration's war effort was that a vital U.S. interest was at stake in Vietnam, requiring a total and tireless commitment to cleansing that area of Communist influence. That presumption has now fallen of its own weight—even if one broadens the context to include the argument that an unlimited commitment in Vietnam, though not vital per se, was necessary to safeguard other vital U.S. interests in Asia.

If we can forthrightly acknowledge the basic, unpalatable truth—that our intervention in 1965 was misconceived, that viewed through cold, clear eyes it could not be justified on the grounds that a vital national interest was at stake—then we can bite the bullet in Vietnam. We can acknowledge past failure and the inevitability of some degree of defeat.

We can move to a phased, unilateral and total withdrawal of forces, not as a means of pretending we have discovered a painless way to achieve partial victory or even a settlement consistent with our original objectives but as a means of liquidating an enterprise that is beyond retrieval and a condition that is poisoning the bloodstream of our society; as a means of putting the Thieu government on notice that, after a reasonable period of months, our military forces will no longer be there; as a means of demonstrating beyond words that Saigon must either move deci-

sively to a settlement during the limited time our remaining military presence can provide supplementary leverage or else decide to fight on alone without U.S. troops beside it. The deed once done would, in my judgment, be accepted by American and European opinion and would be adjusted to by Asia without serious repercussions in areas of principal strategic concern to us.

I do not say we should abruptly abandon the South Vietnamese government; I do say we should give it a definitive indication of our intention to be totally gone within a time frame that affords a reasonable period for leaders throughout South Vietnamese society to chart their own course.

Such a U.S. policy would be extremely painful for several strata of South Vietnamese, bring to the surface the root question of whether they could accommodate to the new political uncertainties or would have to leave the country. But only such a policy could push the Thieu group to a serious contemplation of settlement.

If our course is resolute, the chances are fairly good that the submerged factions in South Vietnam will come to accommodation or a balance which will be able to avoid domination of a new government by the National Liberation Front. Almost certainly, there will be major changes in the social order producing a different distribution of political, economic and social power. But Vietnamese society, twisted and torn by the colonial era, the French-Indochina war, the Diem period and the Great American Infusion, clearly needs reorientation and selfrediscovery. For despite our massive economic assistance and its accompanying rhetoric of revolutionary development and social change, our presence and our actions there have in fact tended to confirm and even to strengthen the old order. But that order cannot be upheld except by external military support.

THE PRESTIGE PROBLEM

A severe loss of U.S. prestige in Asia and throughout the world is frequently cited as the compelling reason why we cannot withdraw unilaterally from Vietnam. It is accordingly of central importance to see this problem in perspective, admitting that Americans face a special difficulty here.

Russia, Germany, Japan, France and Britain have all suffered terrible military failures throughout long and checkered histories; some have barely managed to survive the attendant domestic convulsions. But the United States, alone among the powers of consequence now on the world scene, has never known a major defeat. We should be able to understand that, in the nature of things, we could not expect our record to remain permanently unblemished, especially not when our involvement has pervaded the globe in an era of seething change, instability and violence.

Yet the apparent perfection of the past record is admittedly an obstacle to our taking setbacks in stride. Before World War II, a large body of domestic opinion believed implicitly that America was somehow morally superior, and by this fact protected against the terrible disasters that regularly befell less splendid and upright nations. We are, I think, clearer today that such attitudes reflected the immaturity and naivete of a people not yet fully involved in the complexities of the world; we now understand that the life history of any great nation must show cver time its fair share of victories and defeats.

Moreover, it is an advantageous truth that mere loss of prestige for a great power is always transient and usually brief. Many times in the past two decades, the Soviet Union has suffered painful rebuffs—in the Greek civil war in 1947; at the Turkish straits the same year; in the Berlin blockade of 1948; in the determined U.S.-U.N. response to the attack on South Korea of 1950, which so badly disrupted Stalin's calculations, and most emphatically in the Cuban missile crisis of 1962. Yet no one would deny that the Soviets quickly recovered from each of these setbacks; no one doubts that they have subsequently projected their foreign policies with undiminished vigor and determination.

PRESIDENTIAL FACE

The point is, the great powers quickly recover from blows to their prestige alone, precisely because of their power. When the world wakes up the next morning, the great power has not quite the scene. It is there, as solid as yesterday, and the world must make new arrangements to cope with it.

As with the Soviet Union, so essentially with the United States. We too have had our share—although a far smaller share—of deflations affecting our prestige since the end of World was II, and they have not affected our fundamental strengths in any way. There was the shooting down of the U-2 over Russia, the besieging of President Eisenhower by Tokyo rioters and the travesty at the Bay of Pigs.

At the time of that last fiasco, President Kennedy gave evidence that he understood the limited requirements of U.S. national prestige and he refused to inflate these by injecting considerations of presidential face. By quickly admitting his own error and by nobly taking on the full burden of responsibility, he enabled the country to see the incident in true proportion and to be steadied by his candor.

I have no trouble in believing that, had he lived, he would have similarly cut off the U.S. involvement in Vietnam—possibly at the time of Gen. Khanh's coup in January, 1964, but in any event well below the astronomical level it finally reached. It was the country's tragedy that Lyndon Johnson tended instinctively to equate the nation's prestige with his own, and that his personal needs were greater than the objective requirements of the nation.

Johnson was at bottom a combination of sentimental patriot and gambled which led him to compound original misjudgments many times over rather than risk the loss of prestige associated with an American "defeat" in Vietnam. Kennedy was too skeptical, too attuned to cold reality (as one admirer said, "too smart an Irish Mick"), not to have foreseen the developing morass. He would, I believe, have overridden the quite predictable military arguments and acted to cut the nation's loss, accepting and absorbing whatever deflation was required in terms of national and presidential prestige and taking such measures as lie within the national power and interest to cushion the consequences in places like Thailand, Korea and Japan.

This is still the road to the recovery of our lost sense of proportion, to the healing of our deep domestic divisions, to the re-establishment of a wise and respected foreign policy.

WATER POLLUTION FUNDS

Mr. KENNEDY. Mr. President, as we approach the decade of the seventies, we must face the failures of the sixties—failures which might have been avoided had our national priorities been ordered more in line with our most urgent problems. One of our most conspicuous failures has been in dealing with one of our most pressing national concerns—water pollution.

We in the Congress—in response to the demands of State and local governments and their citizens—have gone on record time and again during the sixties in favor of an all-out national effort to remove the stigma of pollution from our rivers, lakes, streams, and coastal waters. The legislation passed during the sixties and the programs authorized are both comprehensive and farsighted. But our commitment has been an empty one. It has been one of rhetoric, not of action; of promise, but of no fulfillment. For, throughout the sixties, we have failed again and again to provide the funds to make our commitment real and productive.

The real burden of our failure is carried by State and local governments. For these governments, accepting the word of the Federal Government, proceeded with aggressive and far-reaching programs of pollution control and abatement. In response to new Federal requirements under the 1965 Water Quality Act, States have set standards and enforcement deadlines for polluters. But, when these same States came to the Federal Government for the funds promised under the Clean Waters Restoration Act of 1966, for the construction of the facilities which will make these programs workable, they are sent away empty handed.

Our responsibility in this matter is clear. No longer can we offer programs based on a Federal-State partnership and then default in fulfilling the Federal part of the bargain. No longer can we respond to the demands of our citizens on paper alone.

The 1966 Clean Waters Restoration Act authorized $1 billion in matching grants for the construction of water treatment facilities. The Federal Government has had 4 years to plan and adjust the budget to provide these promised and needed funds.

And so, today, I ask my colleagues to join with me in support of the full $1 billion appropriations for pollution abatement. Such action on our part is demanded if our record in this most critical area of national concern is to be other than a record of failure.

I ask unanimous consent that the letter I have sent to the Members of the Senate be printed at this point in the RECORD.

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

OCTOBER 31, 1969.

DEAR SENATOR: On July 13, 1966, the Senate unanimously approved a five year, $3.5 billion program of matching funds for construction of waste treatment and sewage facilities. This Clean Water Restoration Act of 1966 was hailed across the nation as a giant step in the effort to remove the stain of pollution from our national waters.

Today, we approach the fourth year of the program authorized in 1966. Upon review, we see no evidence of a true commitment to this program by the Federal Government. From the program's first year, the Congress has consistently failed to meet its promises with funds. In Fiscal Year 1968, only $203 million of the $400 million authorized was actually appropriated. In FY 1969, only $214 million of the authorized $700 million was appropriated. And now, as we consider the Budget for FY 1970, we see that, once again, we are short-changing clear waters programs—only $214 million is requested in the face of an authorization of $1 billion.

It is interesting to note that the 1966 Act, as passed, authorized a program significantly larger than that requested by the President. At that time, the Congress responded to the demands of state and local governments, and

our citizens, to launch an effort on all fronts to eliminate pollution from our rivers, lakes, streams and coastal waters.

This year, the House has passed an appropriation of $600 million—$386 million more than that requested in the budget. Many Members of the House worked hard to secure the full $1 billion appropriation, and they almost succeeded—losing by only two votes, 146 to 148.

While the Congress has failed to fulfill its commitment to this program, many states and local governments, taking the word of the Federal Government, have adopted aggressive and long-term pollution abatement programs. Seven of these states have prefinanced the Federal share of these projects and now find themselves faced with a severe fiscal crisis because the Federal Government has been unable to reimburse them.

I write today to ask you to join with me in an effort to make the Congress live up to its word. I ask that you join with me in an effort to secure the total $1 billion appropriation for the programs of the Clean Waters Restoration Act. We have been told that over the next ten to twelve years the cost of pollution abatement for the nation would be some $20 billion. Unless we act now to provide the necessary funds for this year, our record in this most critical area will continue to be one of failure.

In a nation with a Gross National Product approaching the vast, and to most people incomprehensible, figure of $1 trillion, I feel that we can afford to deal with the problems created by our industrial affluence. This is especially true when we see other programs funded at significantly higher levels than I believe our national priorities demand.

The Congress can no longer respond to the needs of our citizens on paper alone. We must make a commitment of funds to the programs we have authorized in response to our citizens' demands. Failure to do so is a failure to fulfill the obligation of our office.

I ask again, that you join me in this effort. This measure will come to the Floor of the Senate in a matter of weeks. I intend to introduce appropriate amendments at that time. If you wish to support this effort requiring the full appropriation, please contact Wayne Owens at ext. 2158.

Thank you for your consideration of this most significant matter.

With best regards.

Sincerely,

EDWARD M. KENNEDY.

THE NATIONAL COMMISSION ON VIOLENCE AND THE GROWING IMPORTANCE OF TELEVISION IN NATIONAL POLITICS

Mr. PEARSON. Mr. President, the National Commission on Violence has come forth with a number of conclusions and recommendations following its lengthy study of our troubled society. None of these is more disturbing in its implications for our political system than the just announced finding that the risk of assassination for our leading public figures is on the rise. This shocking, though not surprising, conclusion has led the Commission to recommend an end to the widespread public contacts that Americans have always expected from their Presidents and leading public officials. The Commission suggests as an alternative that personal contacts with large audiences in the future be limited to large meeting halls where security precautions can be most effective.

Moreover, Mr. President, the Commission recommends that presidential campaigns in the future be oriented primarily toward television as the best and safest way of reaching the voters. To make this concentrated television approach easier to implement the Commission urges the Congress to pass a bill granting free time in the final weeks before election day "to establish a new pattern in presidential campaigning and to reduce significantly the pressure toward personal appearances in all parts of the country."

A few weeks ago the Senate Commerce Communication Subcommittee, chaired by the able Senator from Rhode Island (Mr. PASTORE), held hearings on the relationship of television to modern campaigns for high public office. Focusing primarily on the Campaign Broadcast Reform Act—S. 2876—a measure introduced by the distinguished Senator from Michigan (Mr. HART) and myself and 36 of our colleagues, the hearings clearly demonstrated the fact that in almost every race for important public office television is essential. These extremely valuable and timely hearings also developed substantial evidence to show that the cost of television is the primary reason for the rapid escalation in the price of seeking public office. It is this enormous spurt in the cost of campaigning that is threatening the validity of our most cherished democratic principle: namely, that anyone in America, regardless of his station in life, can aspire to and succeed in obtaining high public office.

I earnestly hope that the violent mood which now hangs over our country like a shroud will soon disappear. Any attempt to hide candidates from direct contact with the public they seek to represent is under most circumstances reprehensible and in any case virtually impossible to prevent given the nature of candidates and the expectations of the American electorate. The best way to reduce the tensions that now confront us is to guarantee everyone a piece of the action. To do this we must keep the entrance fees low enough for every serious candidate to afford. Open competition has always produced the answers our society has required. If this pattern of the past is to continue to work in the future then we must act now to guarantee equality of political access to all those interested. Thus, Mr. President, I commend the National Commission on Violence for its great undertaking and wholeheartedly urge my colleagues to carefully consider its recommendations. For a number of excellent reasons they command our support.

RESTRICTING THE FOUNDATIONS

Mr. GOODELL. Mr. President, the Senate Finance Committee has completed action on H.R. 13270, the Tax Reform Act of 1969. I wish to commend the committee for its efforts to complete this tremendous task in such a short time.

For the past several months, I have followed with great interest and concern proposed changes in the tax treatment of private foundations. Private foundations have traditionally been vital contributors to the development of our society, and I strongly believe that they should be allowed to continue to play their innovative and creative role. In my judgment, punitive attacks upon private foundations which result in a limiting of their effectiveness are not in the public interest.

The Finance Committee has announced a number of reasonable changes in the proposals contained in the House-passed bill. Nonetheless, I feel that some of the committee's decisions will have an unwarranted and undesirable effect. I refer specifically to a newly devised provision limiting the life of nonoperating foundations to 40 years, the imposition of an unnecessarily high filing fee for administration and supervision, a far-reaching definition which includes many organizations as foundations which have never been considered as such in the past, and a complete ban on voter registration activities.

I know that my colleagues will want to examine carefully these proposals and the legislative language of other provisions prior to their being discussed on the Senate floor. At this time, I would like to call attention to three timely and pertinent articles on this subject which recently appeared in the New York Times. Mr. President, I ask unanimous consent that the article by Anthony Lewis, entitled "The Tax Bill and the Foundations," which appeared on October 31, M. A. Farber's "Foundation Aides Call Senate Unit's Curbs Unjustified," which appeared on November 2, and a November 3 New York Times editorial entitled "Punishing the Foundations," be printed in the RECORD.

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

[From the New York Times, Oct. 31, 1969]

THE TAX BILL AND THE FOUNDATIONS

(By Anthony Lewis)

Tax policy in any country is social policy; that is a truism. But it is doubtful that many people realize how much social policy Congress is making—how drastically it may be changing a significant mechanism of American life—in the portion of the pending tax bill devoted to foundations.

A major part of the long, complex bill is devoted to placing new restrictions on the funds and operations of tax-exempt private foundations. The latest provision emerged suddenly this week from the Senate Finance Committee, after virtually no discussion in the hearings in either house; it would require most foundations to put themselves out of business after forty years.

The reasons for Congress's critical attitude are no secret. Some foundation grants have been felt to come too close to political action. There is resentment of what some Congressmen consider Eastern Establishment dominance in the foundation world, a resentment exacerbated by a certain arrogance perceived among foudation executives. Some persons have abused the tax exemption for personal gain, but the larger concern is with the possible concentration of power in tax-free sources of money.

The concern and the resentment have a real basis, and it is right that Congress should act to prevent abuses. But it is also essential to consider the affirmative role of foundations, and to understand before final passage how the legislation may affect that role.

CONTRAST WITH BRITAIN

A quick way to indicate the significance of foundations in this country is to consider the contrasting situation in Britain, where the

tax laws comparatively discourages the existence of foundations and private giving generally. Most universities in Britain are totally dependent on Government funds. So is scientific research. The theater, dance and music look automatically to Government money for their main support beyond box-office receipts.

American foundations are not all that daring; most of them are in fact cautious institutions. But they do offer some alternative to total reliance on Federal Government spending, with all the deadening centralization we have come to know that brings. Foundation support of cancer research or an anti-pollution experiment or a new ballet company may give our society insights that would never be possible otherwise.

The Finance Committee's proposal to end foundation life at forty has its philosophical appeal if designed to protect against encrustation and abuse of power. There are lots of other institutions, inside and outside the Government, that Congress might fruitfully consider abolishing automatically after forty years. Or it could really move against concentration of economic power by tightening the screws on inheritance of property.

But in the legislation as it stands, there is a basic inconsistency. If the forty-year rule is intended to prevent concentration and to diversify sources of funds in our society, the bill should encourage the creation of new foundations to replace the old. But in fact it sharply discourages new ones.

Two provisions are crucial. One discourages gifts of appreciated property, mostly shares that have increased in value over the years, to foundations. The other discourages the owners of closely-held companies from creating foundations based on ownership of their shares.

BILL'S PROVISIONS

If a man bought stock at $10 a share and it is now at $100, present tax law allows him to give the stock to any charity or foundation, deduct the full market value and pay no capital gains tax on the appreciation. The new bill as it passed the House would keep that privilege for churches, schools and other charities but wipe it out for foundations. The Senate committee version cuts that discrimination in half.

As for the man who owns all the stock in a family company and wants to turn it over to a new foundation, both versions of the pending bill would rule that out unless the foundation sells off controlling shares within five years. And that in many cases would be difficult.

These provisions sound technical but are crucial, for one simple reason. The great majority of new foundations have been set up in the past, and would be in the future, by precisely these methods—the gift of appreciated shares and of control in family companies. The great example, of course, the Ford Foundation.

The sum of it is that the bill, as it now stands, is not one that would break up a concentration of economic power and enlarge the number of sources of funds in our society. It would almost certainly reduce the number and the function of private foundations, thus increasing our reliance on the Federal Government. And with the environmental and social problems that now face the United States, we surely do not want to narrow the possible sources of new ideas.

[From the New York Times, Nov. 2, 1969]

FOUNDATION AIDES CALL SENATE UNIT'S CURBS UNJUSTIFIED

(By M. A. Farber)

Foundation officials who have led a year-long drive against "excessive" Government regulation charge that a new Congressional proposal for limiting the life of most grant-making foundations is unjustified and discriminatory.

They say the proposal by the Senate Finance Committee would discourage the financial vitality of current foundations and reduce the strength and "options" of the private sector of society.

Senator Albert Gore, Democrat of Tennessee, who advanced the proposal in committee, has argued that individual foundations should not be permitted to prescribe indefinitely the use of public funds "that would otherwise be paid in taxes." He has also warned against the "retention and concentration of economic power in possibly unproductive hands."

BAN ON FUNDS SCORED

The foundation officials conceded that the Senate Committee's general provisions on foundation reform, voted last week, were less restrictive and an improvement over many features of the bill passed by the House of Representatives in August.

But they attack the committee for placing a flat ban on the use of foundation funds for voter registration drives.

The House bill, under certain conditions, would allow the use of such funds, which have been the main source of support for registration efforts among Southern Negroes.

The Senate committee's proposal on perpetuity, approved last Monday as part of a broad tax reform and relief bill, would force most "nonoperating" foundations to terminate in 40 years. Newly started foundations of this kind would be limited to a life of 40 years.

"Nonoperating" foundations—essentially organizations that make grants to other tax-exempt bodies—include most of the larger, well-known, general-purpose foundations. Examples are the Ford, Rockefeller and Danforth Foundations and the Carnegie Corporation of New York.

The proposal would not apply to "operating" foundations, whose chief objective is running a tax-exempt program of its own. Among these foundations, relatively few in number, are Colonial Williamsburg, the Carnegie Endowment for International Peace and the Russell Sage Foundation, a research group. "Nonoperating" foundations would have several alternatives at the time of their expiration, according to the proposal by the committee.

ALTERNATIVES LISTED

They could dispose of all assets to charity, not including other "nonoperating" foundations; become "operating" foundations themselves, or possibly continue much as they were but pay corporate income tax.

The idea of narrowing the life of foundations has been advocated in the past by Senator Gore and by Representative Wright Patman, Democrat of Texas, who is an analyst and critic of foundations. Both men have publicly favored a termination of particular foundations after 25 years.

But few foundation leaders believe that a life rule will be enacted by Congress. It has not been among the Treasury Department's recommendations on foundations in recent years and, only last summer, the House Ways and Means Committee dropped such a suggestion after considering it.

Only a small number of foundations have ever voluntarily willed themselves out of existence. Perhaps the major one was the Julius Rosenwald Fund.

ON THEIR OWN

Mr. Rosenwald, the president of Sears, Roebuck & Co., said in 1928 that "more good can be accomplished" by expanding foundation funds within a generation "as trustees find opportunities for constructive work" than by "storing up large sums of money for long periods of time."

"Coming generations," he continued, "can be relied upon to provide for their own needs."

Leslie Dunbar, executive director of the Field Foundation, said yesterday that his foundation "was not going to complain" about the Senate committee's 40-year proposal.

"To many of my board of trustees," he said, "it just seems unwise for large amounts of money, as it were, to take on a life of their own. From a pragmatic point of view, it's not necessary to hold that sum of money out."

Most foundation officials who were interviewed took a position against a curtailment on the lives of foundations.

McGeorge Bundy, president of the Ford Foundation, said that "no evidence has been offered which would justify singling foundations out from among all American private institutions—tax-exempt or otherwise—and imposing an arbitrary time limit on them."

The proposal, he said, would "not only end the life of existing foundations, but would tend to prevent new ones from being born. Ultimately it would limit the one vital area in the private sector whose alertness and responsiveness have already brought immense benefit to the American people and whose promise for the future is even greater."

EVIDENCE TO THE CONTRARY

J. George Harrar, the president of the Rockefeller Foundation, said that "if the reason for a limit on the life of foundations is fear that they will not alter their programs to meet the future, the evidence is all to the contrary.

"If the reason is the fear that they may grow in size and number so as to wield disproportionate influence in the society," he continued, "the evidence is again to the contrary. In spite of their relatively rapid recent growth, foundations have grown less rapidly than the national wealth or the gross national product and continue to fall increasingly behind."

Mr. Harrar said that the Senate Finance Committee's proposal, if approved by Congress after Senate debate and signed into law, would have a "depressing effect upon the imaginativeness of foundation management."

A number of foundation leaders stressed that "nonoperating" foundations were desirable because they aided the entire range of tax-exempt activities, including "operating" foundations, and because they had acquired an "expertise" in evaluating appeals for grants.

Manning M. Pattillo, president of the Foundation Center, said:

"We need to have in society a kind of institution which is free to provide funds to other groups to do important things that the Government is incapable of doing either because there is insufficient public consensus or because there is inadequate public awareness of the problem."

Many foundation executives warned that prospective donors to foundations—some of whom might want to establish foundations—would shy away from involvement in institutions with restricted lives.

Moreover, the executives said, the bill discourages gifts to foundations of appreciated property—particularly stocks—through reduced deductions and other methods. But such donations, they assert, are the main assistance to foundation endowments. And grants are primarily made with income from endowments.

Most leaders of major foundations appear to agree that a high payout rate for charity on their assets or income should obviate the need for a curtailment on the lives of foundations.

[From the New York Times, Nov. 3, 1969]

PUNISHING THE FOUNDATIONS

With marginal exceptions, the Senate Finance Committee's decision on tax treatment for foundations betray the same puni-

tive spirit that dominated and disfigured these provisions of the House-approved tax reform bill. Those who know and admire the major philanthropic contributions made by the great foundations and many of their smaller counterparts can only be appalled at the suspicion and hatred of these agencies implicit in the decisions on Capitol Hill.

The key issue now joined by the Senate committee's vote is the proposed upper limit of forty years on a foundation's life. Under the Senate committee proposal, foundations would have the choice of distributing their assets in forty years, or beginning to pay the regular corporate income tax.

If the major foundations are—as we believe them to be—socially useful and constructive agencies, then the arbitrary time limit makes no sense. It is difficult to believe that the United States of 2010 will be such a Utopia that it will not need the creative innovations and leadership in scientific and social research that the great foundations have historically provided.

The Senate Finance Committee improved on the House bill by cutting the proposed tax on foundation income, by permitting foundation financing of educational broadcasting and by slightly easing the House-proposed limitations on foundation "political" activities. But it is astonishing that the legislature of a democratc republic should ban activities to stimulate voter participation in elections through voter registration drives. And the Senate group's prohibition of measures that could be construed as causing the public to support or oppose legislation is so vague it could bar foundation support for any program going much beyond research on cancer or particle physics.

Foundations, including even the largest, have erred at times. In addition some have recently shown more courage than discretion in backing unpopular causes. But neither the actual mistakes of foundations nor the boldness implied in some of their recent social experimentation deserve, in any way, the kind of Draconian punishment the new tax bill threatens to mete out to them. If much of the grab bag of crippling provisions now under consideration by Congress becomes law, the loser will be the United States of America and its best interests today and tomorrow.

SENATE FINANCE COMMITTEE MEETS TAX REFORM DEADLINE

Mr. KENNEDY. Mr. President, last Friday, as I am sure all Members are now aware, the Committee on Finance completed its work on what many experts regard as the most significant tax reform bill in the Nation's history. Within a brief period, the committee will file its report on the bill, and this far-reaching legislation will be ready for debate on the Senate floor.

Mr. President, I commend the distinguished chairman of the committee (Senator LONG) for his extraordinary achievement in so promptly completing committee work on the bill. The bill is ready precisely in accord with the schedule tentatively established during the summer, long before the committee hearings began, and long before the various pressures with respect to the House bill began to accumulate.

In the weeks to come, there will be intense debate over many of the provisions of the committee's bill. For the moment, however, it is a time for congratulations to the distinguished Senator from Louisiana. His tireless efforts over the past 2 months deserve our praise, and all of us who are concerned with the cause of tax justice are in his debt for bringing this major bill to the floor so quickly.

Yesterday, on "Face the Nation," Senator LONG eloquently discussed a number of the most important practical and philosophical aspects of the committee bill. I believe that his comments will be of interest to all of us concerned with tax reform, and I ask unanimous consent that a transcript of the program be printed in the RECORD. In addition I ask unanimous consent to have printed in the RECORD an editorial from yesterday's Washington Post, commending the committee's prompt action and highlighting a number of the most significant provisions of the bill.

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

FACE THE NATION

(Broadcast over the CBS television network and the CBS radio network Nov. 2, 1969, Washington, D.C.)

Guest: Senator Russell B. Long, Democrat of Louisiana.

Reporters: George Herman, CBS news; Walter Mears, Associated Press; Marya McLaughlin, CBS news.

Producers: Sylvia Westerman and Prentiss Childs.

Mr. HERMAN. Senator Long, the Nixon administration has said it will veto any tax reform bill which cuts too deeply into federal income. The bill your committee is coming up with appears to cut more deeply than the House version. Have you received any word from the White House on whether your bill is acceptable or whether it is likely to be vetoed?

Senator LONG. I have no doubt that the bill that we are reporting out of the committee is one that the President would sign. That doesn't mean that it will be in that form when it goes to the President's desk. It may very well pick up some amendments that would cause it not to knock the budget very badly out of balance. That is something we have to worry about, if we get to that.

ANNOUNCER. From CBS Washington, in color, "Face the Nation," a spontaneous and unrehearsed news interview, with Senator Russell Long, of Louisiana, Chairman of the Senate Finance Committee. The committee completed work this week on one of the most comprehensive tax bills in history. Senator Long will be questioned by CBS News Reporter Marya McLaughlin, Walter Mears, Chief of the Senate Staff of the Associated Press, and CBS News Correspondent George Herman. We shall continue the interview with Senator Long in a moment.

Mr. HERMAN. Senator Long, as you have indicated, tax reform is likely to mean tax reduction. That means some more deficit in the fiscal budget, the federal budget. How much deficit do you think that your tax bill is finally going to result in?

Senator LONG. I would put it this way: The bill will result in a surplus next year, and it will result in a balanced budget in the following year. Now, in 1972 and 1973 this bill would cause you to have about a $3 billion-plus deficit in those years, but a lot of things can happen between now and then. For one thing, the war in Vietnam might come to a conclusion, military spending might fall off by even $15 billion, so we might not need so much money then. I really don't think that you and I can look into the future and anticipate what the government revenues are going to be more than two or three years in advance and, that being the case, we have a very responsible bill through year 1972, or up until January 1973. At that time, and that is more than two years from now, we can take another look and see if we need more money.

Mr. MEARS. Senator, does that mean that there may have to be a tax increase bill in one of those years to offset the bill that is now before the Senate?

Senator LONG. It could mean that, unless we find ways to economize in government or unless the war in Vietnam comes to a close. Now, if the war in Vietnam comes to an end, we should have a lot of defense savings, not immediately but after a year, and by 1973 we might be in a position to reduce taxes a lot more than this bill proposes. That is something we will have to see when the time comes. Now, of course, if we proceed to vote a lot of social programs to help the poor and to build a lot of good public works, such as expand on the interstate highway program and things of that sort, it may very well be that the things we do for people in the way of additional spending, over which my committee has very little say or control, it might require more taxes. But I would think that we can vote more taxes in 1972, because I don't think we will be at war in 1972.

Miss MCLAUGHLIN. Senator Long, looking at it from the other side, that maybe you are not cutting enough, the average taxpayer hears that you have got $9 billion and he really thinks he is going to get a little package of money the next time he has to pay his taxes. What have you done for the average taxpayer? Is he ever going to feel this? Is he ever going to see it or is it just a game we're playing?

Senator LONG. Well, let's just talk about what is going to happen as compared to what he is paying now. We have some things in the tax law, laws that are supposed to expire—maybe they do and maybe they don't. We have some of these so-called "temporary taxes" that have been temporary, they have been continued ever since World War II. But let's look at what happens compared to what the man is paying right now. If he is the average fellow, in January his taxes go down by 5 per cent. That is his income tax we're talking about. Then in July his income tax goes down by another 5 per cent. Then in January next year his income tax goes down by another 2 per cent. Then next year his income tax goes down by another 3 per cent. So, over a three-year period, his income taxes go down about 15 per cent. Now, that is what it means to the average fellow. He gets 5 per cent in January, 5 per cent in July of next year. Those are the two big items.

Miss MCLAUGHLIN. I take it, from what you are saying just right now, that you anticipate that we can get this bill through this year?

Senator LONG. That is going to be the case whether this bill passes between now and New Year's or whether it does not pass between now and New Year's. Even if the bill doesn't pass until January or February, it will still have the same effect.

Miss MCLAUGHLIN. Will it pass by New Year's?

Senator LONG. It might and then, again, it might not. That just depends upon how Senators on the floor want to conduct themselves. If they want to know everything that is in this bill, there is no way that we can tell a fellow who doesn't know everything we have done and explain it to his satisfaction between now and January. On the other hand, if they are willing to take some of this on faith and only vote on the important things in the bill, the more striking things, then we could pass the bill, I would hope, by the first of December or at worst by the end of the first week in December, and perhaps we could make it law before January.

Mr. HERMAN. You seemed to indicate in your opening answers that you expect some amendments to be tacked on, on the floor which will cost even more money, which will

reduce federal income even more. What are they?

Senator LONG. It is quite possible that someone might want to vote for an amendment that would raise the personal exemption up to $1,000. And if that happened, then that would mean that, instead of having a balanced budget, then we would be out of balance by $6 billion.

Mr. HERMAN. Is that one you expect to pass? I am looking for those that you think really have a chance, those in fact that you think will pass.

Senator LONG. Well, that has a lot of appeal and it could conceivably happen.

Mr. HERMAN. You think it will?

Senator LONG. I don't think that we will have an amendment that will reduce revenues by that much but then, again, someone may offer that and find he is only about 15 votes short of prevailing and, after making a lot of good speeches—I say "good speeches," a lot of vote-getting speeches, let's put it that way—he may come back and try again with one that would put you just $3 billion a year out of balance, and it may carry. There is no way you can predict what the Senate will do with these things that have a lot of political appeal to a lot of people when they are being voted on on the floor. And there are more reasons than one why you can't predict it. Can I just give you one? One simple example is a fellow who is not on the Finance Committee, he is sitting there on the floor and he is running for office next year, and here is an amendment that would cost the government a lot of revenue but it has a lot of appeal to a lot of people. A fellow like that is sometimes inclined to vote for the amendment where he wouldn't be voting for it if he were the one that had to decide whether it finally becomes law or not. He would vote for it and tell some of us on the Finance Committee, particularly the senior members, "Well, now, that is something you fellows ought to work out in conference. If it is going to cost too much money, see if you can't work it out in conference and bring us down a bill that will think about all of those items. If it is all the same with you, it has a lot of appeal and I am going to vote for it. See what you fellows can work out in conference." When a fellow says that, he means, "Look, if this is going to mean a great big deficit, why don't you take about two-thirds of this thing out in conference and bring a third of it back?" That is the kind of thing they are thinking when they tell you that.

Mr. MEARS. Senator, what about the oil depletion allowance? Do you expect a move to put it back up to the 27.5 per cent level on the Senate floor?

Senator LONG. I told the people of Louisiana, the last four times I ran for office, that I was opposed to cutting the oil depletion allowance. Now, permit me to say this, Mr. Mears. When I was in state government, I led the charge to increase the taxes that the oil companies paid to our state three times what they were when I went to work for the State of Louisiana. But I think that the price not having gone up since that time, and Louisiana having taxed them as much as we think they could afford to pay, the depletion allowance should not be reduced because they are not making enough money to pay that much. I do believe that the Senate is not going to put it back at 27.5 per cent, where it has been and is now, although I expect to vote that way. I would guess it will probably stay about where the Finance Committee put it—I didn't vote to put it there—at 23 per cent. The committee voted that way by majority vote. I think there will be some effort made to reduce it below that. My guess is it will stay about where the committee voted to put it, which is about midway between what the House voted to do and what the existing law happens to be now.

Miss MCLAUGHLIN. Senator Long, there is a sort of bad expression called conflict of interest which is connected with you and with the oil depletion allowance, that you vote certainly for your state, for the oil people in your state, but at the same time you are, in fact, voting for yourself. How do you argue this?

Senator LONG. Well, let's look at the difference between a conflict of interest and an identity of interest. Louisiana produces more oil per acre than any state in the Union. The oil industry provides about 50 per cent of all the money that finances the state government of Louisiana. It accounts for about 40 per cent of all the jobs in Louisiana. Now, most of my income comes from oil. If I were fighting against the oil industry I would be fighting against Louisiana because, insofar as that industry has to cut back on its drilling, insofar as it not being able to pay taxes to a state government, then Louisiana suffers. If the oil industry were to pay more taxes—and there was a time when I thought they certainly should pay a lot more, even in my own state—I would want to see that corrected by the state government where it would do a lot of good for a lot of poor people—and our state is one of the poorer states, relatively speaking—rather than correct it by the federal government up here. Yes, I am in the oil business and if I said that inasmuch as I had some interest in oil production I will not vote on this matter or I will take no part, then that would mean that on a matter that is very important to Louisiana we would have just one Senator up here looking after Louisiana's interests instead of having two Senators.

Mr. HERMAN. How far or how deep does that commitment to the oil industry of Louisiana go? If you felt, for example, that the oil industry was in some way raiding the land, that they were doing something that would pollute the waters, that they were doing something that in the long run would be bad not for the oil companies but for the people of Louisiana, would you support the oil companies or would you—in other words, the interests of the two are not always——

Senator LONG. Well, I voted for that pollution bill a year or two ago and helped to round up the votes for it. Now, nobody was hit as hard by that antipollution bill that President Johnson supported than was the oil industry. I helped to put that bill through and I helped to increase the taxes three-fold on the oil industry at state government level. Now, nobody particularly applauded me for doing that, when I was saying that I can afford to pay this tax, and if I can afford it the other fellows can afford it.

Mr. HERMAN. But isn't it a dangerous doctrine to identify the interests of a state with that of one industry in the state, even if it is the biggest?

Senator LONG. Well, what I was going to say, Mr. Herman, was that I have voted against the oil industry when I thought the industry was wrong. Some time ago Senator Connally said that oil production sold by the barrel should be treated as a capital gain. Now I made a speech against that. That would have been more favorable tax treatment than they were receiving at that time. I thought that they were being treated fairly and that, to do anything more for the industry, would be going too far. But I do know this, that since we got through raising taxes on them, their costs have gone up tremendously. Their cost of labor has about doubled. The cost of materials has more than doubled. The cost of transportation has increased by about 150 per cent. And their price has not gone up to more than $3 a barrel, which was what it was when we started raising taxes on them. They are making less profits on investment than the average for manufacturing. I just don't think that we have a case to further increase their taxes. Now, I have said that, I made my position clear, but I would like to make this clear: My interest is the interest of Louisiana. If there is more money than can be collected out of the oil companies, we would like to collect it on the local level rather than you take it away from them here in Washington, and if we thought they could pay more taxes, we would be taxing them right there in Louisiana.

Mr. MEARS. Senator, there has been some controversy about the number of lobbyists who worked around the committee during the tax bill sessions. You have defended them saying that, if you were a businessman facing this kind of situation, you could send somebody here to represent you. Were the lobbyists effective? Did they change the outcome?

Senator LONG. They do a job, let's put it that way. They see to it that the point of view of those whom they represent is presented, and there are a lot of companies that pay such enormous amount of taxes that they ought to have someone up here looking after their interests. It is very easy for one of us to vote to increase the tax on the telephone company or vote to increase the tax on the bankers, and particularly easy to vote to increase the taxes on some industry if you have nobody in that indusrty in your state. It is very easy for some fellow who represents a state that doesn't produce tobacco to vote to put a tax on ciagarettes, or some fellow who represents a state that produces no oil to vote to increase the taxes on the oil industry. Now, when those people have their taxes increased, they are entitled to either pay somebody to present their side of the argument or to come themselves and try to explain it to people, and they do it both ways. May I say that, on this bill, the so-called vested interests—and we are speaking of the business interests, when we use that term, and I don't regard it as a dirty word at all—they took a very bad beating with regard to this bill, both with regard to what we did in the Senate Finance Committee and with regard to what the House of Representatives did to them. Basically, they are paying about $7 billion more in taxes while everybody else gets his taxes reduced. So I would think that they had a right to be represented. They are paying a lot more taxes and, as one who voted to increase the taxes on the real estate people, for example, I feel better about it that we did hear everything they could say about their side of the argument, and some of them are still going to feel very unhappy. But the fact that we did hear them puts us in a better position than if we didn't hear them at all. May I say that the real estate industry, since I made that reference, is complaining, and I think rightfully so, that they had a right to be better heard than they were heard. When the fellow for the real estate boards appeared, we had an egg timer that says that he has ten minutes and when the ten minutes were up the bell rang and his time was up, and he says that wasn't fair, and I quite agree. I wish we could have heard him longer.

Mr. MEARS. Well, essentially, the bill wasn't changed with the presence of these people, then?

Senator LONG. Out of a tax increase of more than $1 billion, they obtained relief of about $30 million. That would be about a 3 per cent tax relief for an industry that is already suffering, on a $1 billion tax increase. So, as a practical matter, we gave them about as much relief as you could put inside an eyedropper, I guess that would be the size of it.

Miss MCLAUGHLIN. Senator Long, not included in this bill but another tax question is what is going to happen about the surtax.

Senator LONG. We would have the surtax go from 10 per cent down to 5 per cent in

January, and then from 5 per cent down to zero in July. Now, that is most of the first year's tax cut in this bill. You could say that, if we don't pass the bill, the whole thing would expire in January, that is correct. But the government needs the revenue, and that is something I think we must continue——

Mr. HERMAN. Will it pass?

Senator LONG (continuing). We continue it for just six months at 5 per cent.

Mr. HERMAN. Will it pass both houses?

Senator LONG. If they let it come to a vote, it will. It has passed the House twice now, and if the Senate were permitted to vote on it, it would pass the Senate. I am talking about the continuation of half the surtax, 5 per cent of that 10 per cent, from January up until July.

Mr. HERMAN. To round out this tax reform question, let me just ask you, to go back to my opening question, I asked you about deficit, what I really meant was decrease in federal income. When all tax reform considerations are agreed to, when the thing is passed and sent to the White House, how much would you guess that it is going to reduce federal income by reforming tax provisions?

Senator LONG. If you look at the whole bill—now, you're talking about just the front side——

Mr. HERMAN. At the whole bill.

Senator LONG (continuing). And the down side, or are you talking about——

Mr. HERMAN. That's right, on balance how much is it going to reduce federal income?

Senator LONG. Well, on balance the government will be about $6.8 billion better off next year than it would be if we passed no law at all. That is how the federal government stands.

Mr. HERMAN. You mean the whole bill is going to increase income by $6 billion?

Senator LONG. Yes, because of two things: One, we repeal the investment tax credit with this bill, that would get us about $3 billion-plus, let's say roughly $3.5 billion; and then, by virtue of continuing that surtax at a 5 per cent rate of six months, we pick up the better part of $3 billion there. So then you take some reforms that we are putting into effect, and they bring in additional revenue. So, on balance this bill will cause the government to have about $6.8 billion next year more than we would have if we passed no bill. Now, of course, some legislation must be passed in any event.

Miss MCLAUGHLIN. Senator Long, could we talk just a few minutes about the Supreme Court's decision on Mississippi desegregation of schools. What do you see the future effect of that on the public school system in your state, or do you see it having any effect?

Senator LONG. It is difficult to predict just what will happen. The governors and the superintendents of education, and a lot of the school boards think that they have been presented with an absolutely impossible problem. We have many thousands of school children who are not in school in Louisiana right now. I say "many," that would be more than 10,000, a great number. I don't know the precise number. But a great number of parents are unwilling to send their children to school under the conditions required by the Supreme Court. The school boards are doing the best they can with that problem. The Governor of Louisiana made a statement the other day which might be misconstrued. I regard that as a statement of frustration, that he just doesn't know what to do about the situation now, and he just would say, "Well, you tell me what to do. I don't know what we're going to do, how we can live with this." So the people of those southern states, and Louisiana is certainly one of them, feel that the Supreme Court and the Department of Health, Education, and Welfare are trying to force upon them what they think is an answer, but they really don't think that anybody in the Nation who has to live with that kind of problem can live with that answer, certainly if they are required to do it that soon. Senator Stennis has been making the point on the Senate floor that people up north, in cities like Chicago, Detroit, New York, Philadelphia are not doing the kind of thing that some of those people would think is appropriate for the South, and contending that if they think it is all that good they ought to do it, to set the example if nothing else.

Mr. HERMAN. Is this going to have a political impact? Is this going to make any difference to Mr. Wallace's political chances?

Senator LONG. I don't see where it can make any difference any time soon. No one, you or I or anyone else, knows just what the situation will be two or three years from now, and that would be the time Mr. Wallace would be running. He won't be running next year, unless he will be running for Congress.

Mr. MEARS. Senator, while we are on the court, do you support the nomination of Judge Haynsworth?

Senator LONG. I should think that I would vote for Judge Haynsworth, just having heard what I have heard. I have heard nothing that causes me to think the man should not be confirmed. All I can learn about the man would sound like that is an honorable, decent man, doing the best he can as the good Lord gives him the light to see it, and I should think I would vote to confirm him. Now, I thought I would reserve judgment until we have debated that matter on the floor. I am not on the Judiciary Committee. They have been very busy, and we have been very busy. We have been meeting all morning and all afternoon. But I should think I would vote for him.

Mr. MEARS. What do you expect the outcome to be? Do you think the Senate will confirm him?

Senator LONG. Based on what I have heard and the conversations I have heard, that Judge Haynsworth is not going to be confirmed unless President Nixon goes beyond making some eloquent statements, such as he made from the White House, and gets down to working on individual Senators on a head-and-head basis. And I think he has a lot of hard work ahead of him if he hopes to see Judge Haynsworth confirmed.

Mr. HERMAN. Are you saying he hasn't done any of that yet?

Senator LONG. I am sure he has done some of it.

Mr. HERMAN. Not enough?

Senator LONG. He has a lot left to do, I would put it that way, if he wants to see Judge Haynsworth confirmed. In other words, I don't think that anything short of a very determined personal effort to talk to individual Senators by the President is going to assure Judge Haynsworth's confirmation.

Miss MCLAUGHLIN. Senator, we have been promised an eloquent statement from President Nixon on Vietnam pretty soon. Do you have any clues as to what that might be on, if you could give him some advice on Vietnam, could you tell us what that might be?

Senator LONG. I don't think I will offer the President any advice on that. I think he ought to make his own decision. I have offered enough Presidents advice about Vietnam, and I think that——

Miss MCLAUGHLIN. Let me put it another way——

Senator LONG (continuing). President Nixon didn't create this situation, he is doing the best he can in trying to solve it. I have expressed my views on it, and I think they are well known to most everybody, including you, Marya, so I think that it would be better for me just to leave it up to the President to say what he intends to do. I personally have been frustrated that this Nation, having gone in there, did not take the steps that I think could have assured victory, that they were not willing to really fight the war to bring it to an early conclusion, I do not think the American people are willing for this thing to drag out for ten years, so I think we have to either fish or cut bait. We have to either fight it to win it, and I don't think the decision will be made to fight it or win it under this President, just as it was not made under the previous President—that not being the case, we have two choices: we can either get out in a hurry or try to phase out our moving out in such a way that we would hope that the South Vietnamese could carry the burden of combat, at least on the ground if not in the air and at sea——

Mr. MEARS. Senator, what about the demonstrators? Do you agree with Vice President Agnew's assessment of their effect on the Nation and of their character?

Senator LONG. I think Vice President Agnew has the courage to say what he believes and I admire him for doing that. I am one of his admirers, I suppose. I didn't vote for him, but I think a man ought to have the courage to stand up and speak out for what he believes in, and that the Vice President is that kind of an American and I admire him for that. Now, I have had some discourteous things to say about some of these demonstrators myself on occasion. I didn't use the same language, but I suppose I would be subject to criticism myself for speaking out strongly for what I believe. But that is what they are doing, and that is what he is doing, and I think he had every bit as much right to speak out against what they are doing, and moreso, in my book, than they have to do in what they are doing. I personally feel that when our men are fighting on the field of battle, as long as they are there fighting and dying for this country, one does no service to us to weaken this Nation's negotiating power at the peace table by indicating that we ought to give up and pull out unilaterally. I think the President is backing up as much as he thinks we dare to and still honor the commitments we have made.

Mr. HERMAN. Senator, up until last January you were the whip, the assistant leader of the Democrats in the Senate, now another man, Senator Kennedy, is the leader. You expressed no bitterness whatsoever at giving the position over to Teddy Kennedy, can you now look back and give us an assessment of how you think he has done as whip as compared to your own performance?

Senator LONG. I don't think it is fair for me to do that. I think he is doing a good job as majority whip. And, as far as I am concerned, I feel he did me a favor by running for the job, for I have had all I could do during the last several months as Chairman of the Senate Finance Committee and representing Louisiana, looking after the interests of that state and trying to protect the national interests. I am pleased to be relieved of the job.

Mr. HERMAN. Okay. That is about the end of our time, Senator Long. Thank you very much for being with us today on "Face the Nation."

ANNOUNCER. Today, on "Face the Nation," the Chairman of the Senate Finance Committee, Senator Russell Long, of Louisiana, was interviewed by CBS News Reporter Marya McLaughlin, Walter Mears, Chief of the Senate Staff of the Associated Press, and CBS News Correspondent George Herman.

[From the Washington Post, Nov. 2, 1969]

TAX REFORM GOES TO THE SENATE

Congratulations are in order for the Senate Finance Committee for sending the tax-reform bill to the floor on schedule. An immense task remains in checking the language of the bill and writing the report, but if the Senate then moves as expeditiously as the Finance Committee has done it should be

possible to enact the bill before the end of the year. In our view, it would be a serious mistake for Congress to lose the momentum it has now attained by letting the bill go over into the 1970 session.

As it now stands, the Finance Committee bill is better than many supposed it would be. Chairman Russell B. Long had given the impression that his committee might indulge in a tax-cutting spree that would be highly troublesome for the Treasury. The bill that it has finally sent to the Senate would cut income taxes about $9 billion a year, offset by increased revenue amounting to $6.5 billion from reform provisions. But the impact of these cuts would be softened in some measure by postponing the full effectiveness of the reduction until 1972. In this regard the bill is somewhat more conservative than that passed by the House.

The Finance Committee must be given credit for some other improvements in the bill. Especially notable are the more equitable schedules approved for single persons and widowed or divorced taxpayers with dependents. The House had also provided relief for these overtaxed categories, but with a strange discriminatory cutoff against single taxpayers under 35 years of age. At the request of the Treasury, the Finance Committee dropped this objectionable provision and adopted a reduced schedule of rates applicable to all single taxpayers. It would require them to pay 20 per cent more than married couples filing joint returns on comparable incomes (instead of 41 per cent more under present law) and the new head-of-household rates would be about midway between the other two schedules. This equitable and workable solution should easily prevail in the House-Senate conference.

We think the committee was well advised to reject Senator Gore's attempt to substitute a higher personal exemption for the tax cuts in the House bill. The effect would have been regressive and would have further complicated the reconciliation of the House and Senate versions.

The most serious deficiency in the Finance Committee bill comes from the elimination of the House provisions designed to ease the problem of tax-exempt state and municipal bands. The House made a realistic approach to this dilemma by offering a federal subsidy to cover the higher interest rates on bonds made taxable by the states and cities and by limiting the tax preferences that any person may pile up for himself. If the Senate version should stand, some of the wealthiest Americans, drawing millions from tax-exempt interest, would continue to pay not one cent in federal income taxes. Here are provisions that should certainly be restored on the Senate floor or in conference.

The Finance Committee also watered down the House's treatment of depletion allowances for the oil and gas industry, but the relatively narrow gaps between the bills in this area should present no major problem. Likewise the Senate committee was more gentle in its claims upon capital gains, and the conflicting provisions in regard to foundations will require substantial adjustments. No doubt the Treasury will plead for narrowing the gap between the total cuts and increases, but there are no insuperable obstacles in sight. The country appears to be much closer to the achievement of tax reform than seemed possible to many at the beginning of the present congressional session.

PRESIDENT'S PROGRAM FOR THE AMERICAS

Mr. GRIFFIN. Mr. President, in an address to the Inter-American Press Association last Friday night, President Nixon proposed a broad new program for reshaping and strengthening the partnership of all countries in the Western Hemisphere.

It is a program based on mutual interest, mutual help, and mutual respect.

Mr. President, I ask unanimous consent that the text of the President's address be printed in the RECORD.

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

[Text of the President's address to the Inter-American Press Association, Oct. 31, 1969]

ACTION FOR PROGRESS FOR THE AMERICAS

Mr. Chairman, ladies and gentlemen of the Inter-American Press Association, I welcome this opportunity to speak to you and to our neighbors throughout the new world about a matter uppermost in the minds and hearts of all of us. I want to speak to you about the state of our partnership in the Americas. In doing so, I wish to place before you some suggestions for reshaping and re-invigorating that partnership.

Often we in the United States have been charged with an overweening confidence in the rightness of our own prescriptions: occasionally we have been guilty of the charge. I intend to correct that. Therefore, my words tonight are meant as an invitation by one partner for further interchange, for increased communication, and above all for new imagination in meeting our shared responsibilities.

For years, we in the United States have pursued the illusion that we could re-make continents. Conscious of our wealth and technology, seized by the force of our good intentions, driven by our habitual impatience, remembering the dramatic success of the Marshall Plan in postwar Europe, we have sometimes imagined that we knew what was best for everyone else and that we could and should make it happen.

But experience has taught us better.

It has taught us that economic and social development is not an achievement of *one* nation's foreign policy, but something deeply rooted in each nation's own traditions.

It has taught us that aid that infringes pride is no favor.

It has taught us that each nation, and each region, must be true to its own character.

What I hope we can achieve, therefore, is a more mature partnership in which all voices are heard and none is predominant—a partnership guided by a healthy awareness that give-and-take is better than take-it-or-leave-it.

My suggestions this evening for new directions toward a more balanced relationship come from many sources.

First, they are rooted in my personal convictions. I have seen the problems of the Hemisphere at first hand, and I have felt its surging spirit—determined to break the grip of outmoded structures, yet equally determined to avoid social disintegration. Freedom—justice—a chance for each of our people to live a better and more abundant life—these are goals to which I am unshakeably committed. Progress in our Hemisphere is not only a practical necessity but a moral imperative.

Second, these new approaches have been substantially shaped by the report of Governor Rockefeller, who, at my request, listened perceptively to the voices of our neighbors and incorporated their thoughts into a set of foresighted proposals.

Third, they are consistent with thoughts expressed in the Consensus of Vina del Mar, which we have studied with great care.

Fourth, they have benefited from the counsel of many persons in government and out, in this country and throughout the Hemisphere.

And, finally, basically, they reflect the concern of the people of the United States for the development and progress of a Hemisphere which is new in spirit, and which—through our efforts together—we can make new in accomplishment.

I offer no grandiose promises and no panaceas.

I do offer action.

The actions I propose represent a new approach, based on five principles:

First, a firm commitment to the inter-American system, and to the compacts which bind us in that system—as exemplified by the Organization of American States and by the principles so nobly set forth in its charter.

Second, respect for national identity and national dignity, in a partnership in which rights and responsibilities are shared by a community of independent states.

Third, a firm commitment to continued U.S. assistance for Hemisphere development.

Fourth, a belief that the principal future pattern of this assistance must be U.S. support for Latin American initiatives, and that this can best be achieved on a multilateral basis within the inter-American system.

Fifth, a dedication to improving the quality of life in the Western Hemisphere—to making people the center of our concerns, and to helping meet their economic, social and human needs.

We have heard many voices from Latin America in these first months of our new Administration—voices of hope, voices of concern, voices of frustration.

We have listened.

Those voices have told us they wanted fewer promises and more action. They have told us that U.S. aid programs seemed to have helped the United States more than Latin America. They have told us our trade policies were insensitive to Latin American needs. They have told us that if our partnership is to thrive, or even to survive, we must recognize that the nations of Latin America must go forward in their own way, under their own leadership.

It is not my purpose here tonight to discuss the extent to which we consider the various charges right or wrong. But I recognize the concerns, and I share many of them. What I propose tonight is, I believe, responsive to those concerns.

The most pressing concerns center on economic development—and especially on the policies by which aid is administered and by which trade is regulated.

In proposing specific changes tonight, I mean these as examples of the actions I believe are possible in a new kind of partnership.

Our partnership should be one in which the United States lectures less and listens more, and in which clear, consistent procedures are established to ensure that the shaping of Latin America's future reflects the will of the Latin American nations.

I believe this requires a number of changes.

To begin with, it requires a fundamental change in the way in which we manage development assistance in the Hemisphere.

I propose that a multilateral inter-American agency be given an increasing share of responsibilty for development assistance decisions. CIAP—the Inter-American Committee for the Alliance for Progress—could be given this function. Or an entirely new agency could be created. Whatever the form, the objective would be to evolve an effective multilateral framework for bilateral assistance, to provide the agency with an expert international staff and, over time, to give it major operational and decision-making responsibilities.

The Latin American nations themselves would thus jointly assume a primary role in setting priorities within the Hemisphere, in developing realistic programs, and in keeping their own performance under critical review.

One of the areas most urgently in need of new policies is trade. In order to finance their import needs and to achieve self-sustaining growth, the Latin American nations must expand their exports.

Most Latin American exports now are raw materials and foodstuffs. We are attempting to help the other countries of the Hemisphere to stabilize their earnings from those exports, and to increase them as time goes on.

Increasingly, however, those countries will have to turn toward manufactured and semi-manufactured products for balanced development and major export growth. Thus they need to be assured of access to the expanding markets of the industrialized world. In order to help achieve this, I have determined to take the following major steps:

First, to lead a vigorous effort to reduce the non-tariff barriers to trade maintained by nearly all industrialized countries against products of particular interest to Latin America and other developing countries.

Second, to support increased technical and financial assistance to promote Latin American trade expansion.

Third, to support the establishment, within the inter-American system, of regular procedures for advance consultation on all trade matters. U.S. trade policies often have a heavy impact on our neighbors. It seems only fair that in the more balanced relationship we seek, there should be full consultation within the Hemisphere family before decisions affecting its members are taken, not after.

Finally, in world trade forums to press for a liberal system of generalized tariff preferences for all developing countries, including Latin America. We will seek adoption by all of the industrialized countries of a scheme with broad product coverage and with no ceilings on preferential imports. We will seek equal access to industrial markets for all developing countries so as to eliminate the discrimination against Latin America that now exists in many countries. We will also urge that such a system eliminates the inequitable "reverse preferences" that now discriminate against Western Hemisphere countries.

There are three other important economic issues that directly involve the new partnership concept, and which a number of our partners have raised: "tied" loans, debt service and regional economic integration.

For several years now, virtually all loans made under U.S. aid programs have been "tied"—that is, they have been encumbered with restrictions designed to maintain U.S. exports, including a requirement that the money be spent on purchases in the United States. These restrictions have been burdensome for the borrowers, and have impaired the effectiveness of the aid. In June, I ordered the most cumbersome restrictions removed. In addition, I am now ordering that effective November 1, loan dollars sent to Latin America under AID be freed to allow purchases not only here, but anywhere in Latin America. As a third step, I am also ordering that all other onerous conditions and restrictions on U.S. assistance loans be reviewed, with the objective of modifying or eliminating them.

If I might add a personal word, this decision on treating AID loans is one of those things that people kept saying ought to be done but could not be done. In light of our own balance of payments problems, there were compelling arguments against it. But I felt the needs of the Hemisphere had to come first, so I simply ordered it done—showing our commitment in actions, rather than only in words. This will be our guiding principle in the future.

The growing burden of external debt service has increasingly become a major problem of future development. Some countries find themselves making heavy payments in debt service which reduce the positive effects of development aid. I suggest that CIAP might appropriately urge the international financial organizations to recommend possible remedies.

We have seen a number of moves in Latin America toward regional economic integration, such as the establishment of the Central American Common Market, the Latin American and Caribbean Free Trade Areas, and the Andean Group. The decisions on how far and how fast this process of integration goes, of course, are not ours to make. But I do want to stress that we stand ready to help in this effort, if our help should be wanted.

On all these matters, we look forward to consulting further with our Hemisphere partners. In a major, related move, I am also directing our representatives to invite CIAP, as a regular procedure, to conduct a periodic review of U.S. economic policies as they affect the other nations of the Hemisphere, and to consult with us about them. Similar reviews are now made of the other Hemisphere countries' policies, but the United States has not previously opened its policies to such consultation. I believe true partnership requires that we should, and henceforth, if our partners so desire, we shall.

I would like to turn now to a vital subject in connection with economic development in the Hemisphere, namely, the role of private investment. Clearly, each government must make its own decisions about the place of private investment, domestic and foreign, in its development process. Each must decide for itself whether it wishes to accept or forego the benefits private investment can bring.

For a developing country, constructive foreign investment has the special advantage of being a prime vehicle for the transfer of technology. And certainly, from no other source is so much investment capital available. As we all have seen, however, just as a capital-exporting nation cannot expect another country to accept investors against its will, so must a capital-importing country expect a serious impairment of its ability to attract investment funds when it acts against existing investments in a way which runs counter to commonly accepted norms of international law and behavior. And unfortunately, and perhaps unfairly, such acts by one nation affect investor confidence in the entire region.

We will not encourage U.S. private investment where it is not wanted, or where local political conditions face it with unwarranted risks. But my own strong belief is that properly motivated private enterprise has a vital role to play in social as well as economic development. We have seen it work in our own country. We have seen it work in other countries, whether they are developing or developed, that likely have been recording the world's most spectacular rates of economic growth.

In line with this belief, we are examining ways to modify our direct investment controls in order to help meet the investment requirements of developing nations in Latin America and elsewhere. I have further directed that our aid programs place increasing emphasis on assistance to locally-owned private enterprise. I am also directing that we expand our technical assistance for establishing national and regional capital markets.

As we all have seen, in this age of rapidly advancing science, the challenge of development is only partly economic. Science and technology increasingly hold the key to our national futures. If the promise of this final third of the Twentieth Century is to be realized, the wonders of science must be turned to the service of man.

In the Consensus of Vina del Mar, we were asked for an unprecedented effort to share our scientific and technological capabilities.

To that request, we shall respond in a spirit of partnership.

This, I pledge to you tonight: the nation that went to the moon in peace for all mankind is ready to share its technology in peace with its nearest neighbors.

Tonight, I have discussed with you a new concept of partnership. I have made a commitment to action. I have given examples of actions we are prepared to take.

But as anyone familiar with government knows, commitment alone is not enough. There has to be the machinery to ensure an effective follow-through.

Therefore, I am also directing a major reorganization and upgrading of the U.S. Government structure for dealing with Western Hemisphere affairs.

As a key element of this, I have ordered preparation of a legislative request, which I shall submit to Congress, raising the rank of the Assistant Secretary of State for Inter-American Affairs to Under Secretary—thus giving the Hemisphere special representation. This new Under Secretary will be given authority to coordinate all U.S. Government activities in the Hemisphere.

Debates have long ranged, both in the United States and elsewhere, over what our attitudes should be toward the various forms of government within the inter-American system.

Let me sum up my own views.

First, my own country lives by a democratic system which has preserved its form for nearly two centuries. We are proud of our system. We are jealous of our liberties. We hope that eventually most, perhaps even all, of the world's people will share what we consider to be the blessings of a genuine democracy.

We are aware that most people today, in most countries of the world, do not share those blessings.

I would be less than honest if I did not express my concern over examples of liberty compromised, of justice denied or of rights infringed.

Nevertheless, we recognize that enormous, sometimes explosive, forces for change are operating in Latin America. These create instabilities, and bring changes in governments. On the diplomatic level, we must deal realistically with governments in the inter-American system as they are. We have, of course, a preference for democratic procedures, and we hope that each government will help its people to move forward toward a better, a fuller and a freer life.

In this connection, however, I would stress one other point. We cannot have a peaceful community of nations if one nation sponsors armed subversion in another's territory. The Ninth Meeting of American Foreign Ministers clearly enunciated this principle. The "export" of revolution is an intervention which our system cannot condone, and a nation which seeks to practice it can hardly expect to share in the benefits of the community.

Finally, a word about what all this can mean for the world.

Today, the world's most fervent hope is for a lasting peace in which life is secure, progress is possible and freedom can flourish.

In each part of the world, we can have lasting peace and progress only if the nations directly concerned take the lead themselves in achieving it. And in no part of the world can there be a true partnership if one partner dictates its direction.

I can think of no assembly of nations better suited than ours to point the way in developing such a partnership. And a successfully progressing Western Hemisphere, demonstrating in action mutual help and mutual respect, will be an example for the world. Once again, by this example, we will stand for something larger than ourselves.

For three quarters of a century, many of us have been linked together in the Organization of American States and its predecessors in a joint quest for a better future. Eleven years ago, Operation Pan America was launched as a Brazilian initiative. More

recently, we have joined in an Alliance for Progress, whose principles still guide us. Now our goal for the 70s should be a decade of Action for Progress for the Americas.

As we seek to forge a new partnership, we must recognize that we are a community of widely diverse peoples. Our cultures are different. Our perceptions are often different. Our emotional reactions are often different. Partnership—mutuality—these do not flow naturally. We have to work at them.

Understandably, perhaps, a feeling has arisen in many Latin American quarters that the United States "no longer cares."

My answer to that is simple.

We do care. I care. I have visited most of your countries. I have met most of your leaders. I have talked with your people. I have seen your great needs, as well as your great achievements.

And I know this, in my heart as well as in my mind: If peace and freedom are to endure in the world, there is no task more urgent than lifting up the hungry and the helpless, and putting flesh on the dreams of those who yearn for a better life.

Today, we share an historic opportunity.

As we look together down the closing decades of this century, we seek tasks that summon the very best that is in us. But those tasks are difficult precisely because they do mean the difference between despair and fulfillment for most of the 600 million people who will live in Latin America by the year 2000. Those lives are our challenge. Those lives are our hope. And we could ask no prouder reward than to have our efforts crowned by peace, prosperity and dignity in the lives of those 600 million human beings, each so precious and each so unique—our children and our legacy.

AUTHORIZATION FOR SUBCOMMITTEE ON INDIAN EDUCATION OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE TO FILE REPORT AND SUPPLEMENTAL VIEWS BY MIDNIGHT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Subcommittee on Indian Education of the Committee on Labor and Public Welfare be permitted to have until midnight tonight to file its report, together with supplemental views, in accordance with Senate Resolution 80, as extended.

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

Mr. KENNEDY. Mr. President, today the Subcommittee on Indian Education intends to file its final report with the Senate. This report is the culmination of 2 years' work by the subcommittee, work directed by three different chairmen: Senator Robert F. Kennedy, Senator Wayne Morse, and myself.

We have published seven volumes of hearings. We have authorized the publication of five separate committee prints, covering various aspects of our investigations and findings. These prints will be available shortly.

The report which will be filed today makes some 60 separate recommendations. These recommendations were built upon our detailed, extensive findings. The findings tell a story of a national policy failure of major proportions, a failure we simply must correct if American Indian children are to receive decent education. For today they do not—either in Federal schools or public schools. This is particularly shocking in the case of Federal schools, because the Federal Government has assumed the full share of responsibility for the Indian children in these schools. The school buildings, the teachers' salaries, the curriculum—these are all directed by the Federal Government. That they should be less than excellent is a disgrace.

I expect the report to be available late Tuesday or Wednesday. I will tomorrow announce the time and place at which I have asked the other members of the subcommittee to join with me in a presentation and discussion of the subcommittee's findings and recommendations. This presentation and discussion will be open to the press.

Mr. MONDALE. Mr. President, today, after more than 2 years of field investigations and hearings, the Senate Special Subcommittee on Indian Education will submit its final report "Indian Education: A National Tragedy—A National Challenge."

It has been a privilege, and an education, for me to serve on the subcommittee, and to have participated in the investigation which led to this report, which I am convinced will be recognized as the most comprehensive study ever made of Indian education. During the course of its relatively short existence the subcommittee has published seven volumes of hearings, five committee prints and the final report itself.

Much of the credit for this significant report must go to the distinguished Senator from the State of Massachusetts, the Honorable EDWARD M. KENNEDY, who so ably and concernedly guided its work as chairman. Senator KENNEDY picked up the task where his brother, the late Senator Robert F. Kennedy—the subcommittee's first chairman—left it, and has provided the dedicated leadership needed to put together this massive study. Senator Robert Kennedy's dedication to the cause of the American Indian is already a well-known part of history. It is fitting therefore that the report is dedicated to him.

The final report itself makes us all aware of the fact the American Indian is not receiving equal educational opportunities.

The statistics on this subject are so often quoted that they seem to have lost meaning. High dropout rates, high absenteeism, substantial illiteracy, we have heard it all before. The Indian Education Subcommittee went beyond these statistics, though, and asked "Why?" We came up with answers—many of them supplied by the Indian people themselves—which in retrospect seem so basic to any effective educational program that it is embarrassing to our Nation that we have not implemented them before.

Many times in the course of our investigation I have been shocked by the Neanderthal educational approaches used for Indian students and by the insensitivity of school personnel to students of a different culture. I hope this report can be a start in remedying some of the problems we saw in our investigation. After 400 years of failing the Indian, we do not have an easy task before us. But if we decide we want to, we can meet the challenge.

Mr. DOMINICK. Mr. President, today the Senate Special Subcommittee on Indian Education will submit its monumental report entitled "Indian Education: A National Tragedy—A National Challenge."

Mr. President, I have been involved in Indian affairs during most of my years in Congress. I served on the Indian Affairs Subcommittee in the House, and until a few years ago was a member of the Indian Affairs Subcommittee of the Senate Committee on Interior and Insular Affairs.

Now, as ranking Republican on the Indian Education Subcommittee, I must say this has been the most challenging undertaking of all.

The history of our report—the initiation, planning, and development—is that of a deep and sincere concern for the American Indian and his educational problems on the part of both political parties. It is a prime index to congressional effectiveness and cooperation on both sides when faced with a problem of national scope that requires a united approach to reach the objective, that of creating, for the American Indian, an educational program cognizant of his tribal values, willing and flexible enough to constantly reevaluate programs, and with a desire to provide the means for Indians to develop themselves educationally and be on a par with non-Indians in our very competitive society.

The long history of Federal-Indian relations in our society—despite the expenditure of millions of dollars—has not been one of successfully coping with the problem of acculturation or assimilation, as that problem has confronted our American Indians, but rather to attempt solution of the problem as the non-Indian sees it. There has been a myriad of Indian experts, but we have overlooked the development of expert Indians. Solution has been our objective, success has been our goal, but both solution and success have evaded our grasp to this day. As the Senator from Arizona (Mr. FANNIN) so aptly put it in his memorandum on the subject:

> Our efforts have not been in vain, but they have too often been inconclusive.

Past history indicates that faced with policies in the field of Indian affairs not producing the desired result we have changed that policy again and again. Indians—not liking our policy of the moment—need only wait a few years knowing that a new policy was just around the corner. Our Indian policy has been like a child's kaleidoscope, ever changing, and easily changed, by whatever hand was holding it.

Running through this myriad compound of programs and policies, however, was one consistent thread that the hand changing the policy at will was not the hand of the Indians nor was it guided by the Indians. The Government was in the position of a doctor treating a patient who never asked the patient where the pain was located nor how severe it was. This simile—though it may seem unrelated to the subject at hand—is simply to establish what I consider to be one of the most important aspects of this report,

that it was constantly focused on Indian opinion, desires, and goals.

Certainly such a study could have been confined to hearings and conferences with various Government and State officials concerned with their programs for educating the American Indian but such an approach would have overlooked the basic ingredient—necessary to success—the Indian and his knowledge of why the Federal Government Indian education programs were unsuccessful. The very foundation stones that this subcommittee was built on were: First, a coordinated bipartisan approach; and second, listening to the Indian voice of concern and aspiration.

THE NATIONAL INDIAN BOARD OF INDIAN EDUCATION

This, by way of background, explains why I am so delighted that the suggestion of the minority for a National Indian Board of Indian Education was adopted.

Such an approach represents a striking departure from the past. It will give our Indian citizens—with their unique relationship to the Federal Government—a truly meaningful voice in the future of their education programs in the Federal schools.

I ask unanimous consent that recommendation No. 16 be printed at this point in my remarks.

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

RECOMMENDATION No. 16

The subcommittee recommends that there be established a National Indian Board of Indian Education with authority to set standards and criteria for the Federal schools.

Structurally, this recommendation is patterned after the organization of education in the States, with the National Indian Board of Indian Education as the centerpoint of citizen participation much as is the State Board. It would, as do the counterpart boards in the States, have oversight over the operations of the schools and have authority to set standards and criteria and determine policy within the framework of the law. The National Board would receive funds for its operations.

The National Board would be composed of some fifteen members, representative of the Indian tribes and communities, serving staggered terms of three years. They would be appointed by the President from lists of nominees furnished by the Indian tribes and communities and would be eligible to serve no more than two consecutive terms. At least annually, but more often if necessary, the Board would submit to the Congress and to the President reports and recommendations for administrative action or legislation, thus giving the Indians themselves leverage in effecting change. The National Board could elect to ex officio membership no more than five non-Indian individuals expert in areas of concern to the Board.

The National Board would be authorized to utilize the expertise of the U.S. Office of Education, the Office of Economic Opportunity, and other Federal agencies.

While this recommendation envisions the appointment of the National Board, the subcommittee believes that the matter of election of the members of the National Board merits careful consideration. Therefore, the National Board should be empowered to establish the mechanism for electing the Board, and an equitable means by which such members might be elected. It should submit a plan for election of Board members, to the Congress, and to the President.

If this plan is not rejected by either House of Congress, following the procedure of congressional action as prescribed by law in the case of executive reorganization plans, then the election procedure would be put into effect.

The National Board would also be empowered to participate in the negotiation of contracts with individual tribes and communities to run local school systems for Indians.

The Board would present to the Department of Interior its suggestions for nominees for Assistant Commissioner for Education as well as presenting its views on any candidate that the Department may be considering for the post. Since the Assistant Commissioner for Education would be serving for one or more terms of 4-year duration, the National Board would have the foregoing review responsibilities also with respect to reappointment.

Finally, the National Board would serve in an advisory capacity with respect to Federal education programs involving Indians in the public schools. For example, the Board could review school district use of Johnson-O'Malley funds to assure they were being used for the needs of Indian students.

Mr. DOMINICK. Mr. President, we also suggested that local Indians boards of education be established for Federal Indian school districts, and, in addition, that provision be made for increased parental and community involvement. This was complied with, elevating the Commissioner of Bureau of Indian Affairs to an Assistant Secretary for Indian Affairs. The subcommittee agreed.

I ask unanimous consent that recommendations Nos. 15, 17, and 18 be printed at this point in my remarks.

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

RECOMMENDATION No. 15

The subcommittee recommends (a) That the position of the Commissioner of the Bureau of Indian Affairs be upgraded by giving him the concurrent title of Assistant Secretary for Indian Affairs; (b) That the Bureau of Indian Affairs be removed from the authority of the Assistant Secretary for Public Land Management and be placed under the authority of this new Assistant Secretary for Indian Affairs.

At present, the BIA is one of four bureaus under the Assistant Secretary for Public Land Management. The four are: the BIA; the Bureau of Land Management; the Bureau of Outdoor Recreation; and the Office of Territories. This Assistant Secretary is thus principally concerned with the conservation, management, and development of some 453 million acres of the nation's public lands, and the administration of mining and mineral leasing on federally owned lands. He is also the focal point of Federal activities related to outdoor recreation.

It is perfectly plain that the present administrative arrangement short-changes the BIA, which must compete with other bureaus (whose interests are diametrically opposed) for the Assistant Secretary's attention.

The present arrangement has resulted in inadequate budget levels, neglect of educational programs and problems, and lack of forceful leadership for improvement. The change in placement and status of the BIA should permit higher budget levels, more effective leadership, and more rapid innovation.

There exist ample precedents for this dual title. For example, in the Department of Housing and Urban Development, the Assistant Secretary for Mortgage Credit is also the Commissioner for Federal Housing. Furthermore, the Commissioner of the BIA, Hon. Louis Bruce, endorsed this step in a meeting with the subcommittee on Oct. 2, 1969.

RECOMMENDATION No. 17

The subcommittee recommends that Indian boards of education be established at the local level for Federal Indian school districts.

The powers of such local boards would be similar to those powers traditionally held by local school boards. The boards, for example, would have supervision over curriculum and the hiring of faculty in the schools in their districts. Generally, they would have jurisdiction in Indian school districts containing elementary and secondary schools situated in a proper geographic, tribal, or community area. These boards would be either elected by the Indian district in which they would serve, or be appointed by the tribal or community authority there. It is assumed that the method of selection would vary from area to area. Approximately 80 percent of local boards throughout the country are elected.

In keeping with the practice throughout the Nation wherein the overwhelming majority of local school boards are elected, the subcommittee expresses the hope that local Indian boards will likewise be subject to election, keeping in mind that in a minority of areas, as elsewhere in the country, local preference may dictate that the board be appointed.

The local boards would have direct lines of communication with the National Indian Board of Indian Education, and would be empowered to convey to it recommendations for overall policy.

RECOMMENDATION No. 18

The subcommittee recommends that Indian parental and community involvement be increased.

The BIA has been particularly lax in involving the participation of Indian parents and communities in the education process. Such involvement would have a beneficial effect on the attitude of Indian children toward school and their own education, and could be helpful in bringing about strengthened and enhanced education programs.

In addition, this parental and community involvement at the school level complements the local and national Indian boards recommended above.

Mr. DOMINICK. Mr. President, in its original conception the funds for operating the Council were to come from assessment of all member departments. However, during the 90th Congress, legislation was passed containing language making it unlawful for appropriated funds to be used to finance interdepartmental boards, commissions, councils, committees or similar groups not having prior and specific congressional approval. The Council therefore was without funds for staffing or equipment and Senate Joint Resolution 121 of this Congress was to authorize such funds.

This organization, although quite new, can provide a very useful service to the Federal Government and to the Indian tribes. No other arm of the Federal Government can carry out the necessary functions charged to the Council and certainly the day has come—with our numerous programs—for one organization to be responsible for coordinating them. The reason for the lack of an appropriation for the NCIO as I explained during

the floor debate was technical in nature—the House had not acted on the authorizing legislation—and my reason for discussing the subject at that time was to gain as much support for the appropriation—when it did come before the Senate—as possible.

President Nixon requested $300,000 for the Council in his 1970 budget. This coincides with his statement last fall that—

The right of self-determination of the Indian people will be respected and their participation in planning their own destiny will be actively encouraged. I will oppose any effort to transfer jurisdiction over Indian Reservations without Indian consent. I will fully support the National Council on Indian Opportunity and I will ensure that the Indian people are fully consulted before programs under which they must live are planned.

Before this can be fulfilled, the House must act on the authorizing legislation. I hope that this will occur at the earliest possible date.

Mr. President, there were many other contributions of the minority to this report, but I wanted to specifically refer to the National Indian Board of Indian Education because I think it represents the most significant breakthrough on behalf of the Indian education in decades.

For the record, however, I ask unanimous consent that the supplemental views which list other contributions of the minority be printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DOMINICK. Mr. President, let me emphasize that while there were some misunderstandings between the minority and majority from time to time, I believe they have been resolved. In my judgment, each Senator made a valuable contribution to our work and in the final outcome, all were given fair consideration to their viewpoints.

All Senators are in agreement on the greater part of the report. There is one major exception—establishment of a Select Committee on the Human Needs of American Indians.

The rationale for the opposition of the minority to such a recommendation is basic. A select committee can only study. It cannot legislate. The American Indian has heard enough about studies. Our subcommittee alone has produced one page of study for every 35 school-age Indian children, aged 5 to 18. Our position is further explained in the supplemental views.

NATIONAL COUNCIL ON INDIAN OPPORTUNITY

One further point. The subcommittee adopted our suggestion for full funding of the National Council on Indian Opportunity. I refer Senators to recommendation No. 12, and ask unanimous consent that it be printed at this point in my remarks.

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

RECOMMENDATION No. 12

The subcommittee recommends full funding of the National Council on Indian Opportunity for fiscal year 1970, and for subsequent years.

The National Council on Indian Opportunity was created by Executive Order 11399 on March 6, 1968. The purpose of the Council as stated in the Executive order is to encourage full use of Federal programs as they relate to Indians, appraise the impact and progress of Federal programs for Indians, and suggest ways to improve such programs.

By including six Indians as members, the Council affords the Indian people, for the first time in the history of Federal-Indian affairs, an opportunity to sit at the highest administrative level and have a direct say in the formulation of policies and programs as they relate to Indians.

President Johnson and President Nixon both have given their strong support to the Council. The National Congress of American Indians, the largest Indian organization in the country, indicated its strong support for this program in a position paper adopted May 6, 1969, in Albuquerque, N. Mex. The NCAI commented that the creation of the Council was:

* * * a milestone in the involvement of Indian people with the administration of this country, and as such it can be a vital mechanism for Indian involvement in their own progress. There is no other like body which gives the Indian people such vital participation in the discussion and solution of their problems. The National Council on Indian Opportunity must be continued and funds appropriated for its continued operation.

As more and more programs for Indians are begun in agencies other than the Department of the Interior, the need for program coordination and appraisal becomes even more acute. Nearly half of the total Federal outlay in Indian Affairs goes to agencies other than the Bureau of Indian Affairs. These departments, whose secretaries, along with the Vice President as chairman, and the Indian members mentioned above, sit on the Council, are: Agriculture, Commerce, Labor, HEW, HUD, and OEO. Additionally, it is expected that the Department of Justice will embark on its first Indian program during fiscal year 1970. In the judgment of the subcommittee, the Council is the only agency equipped with the authority to coordinate all Federal Indian programs.

On September 3, 1969, the Senate passed an authorizing resolution continuing the Council. The resolution is now pending in the House of Representatives and the subcommittee recommends favorable action be taken as soon as possible.

It is expected that another request for funding of the Council will be included in a supplemental appropriations bill to be sent to Congress later this fall. The subcommittee concluded that favorable action on funding the Council is imperative.

SENATOR FANNIN

Mr. DOMINICK. Mr. President, I think it only appropriate that we take note of the initiative of Senator FANNIN in the creation of our subcommittee.

The Senate Special Subcommittee on Indian Education had its beginning during consideration in 1966 by the full committee of possible amendments to the Elementary and Secondary Education Act. One of the prime areas of Committee concern was possible amendments to titles I, II, and III extending the benefits of these titles to Indian children enrolled in Bureau of Indian Affairs schools.

At that time, Senator FANNIN—long sympathetic to Indian problems addressed a letter to Senator Wayne Morse, chairman of the Education Subcommittee, strongly suggesting the creation of a special Subcommittee on Indian Education to supplement the work of Senator Morse's Education Subcommittee. As a result of this primary emphasis, Senate Resolution 165—providing the authorization for a study of matters pertaining to the education and related problems of Indian children—was introduced and subsequently passed the Senate on August 31, 1967. In the report of the Committee on Rules and Administration, Senator FANNIN's memorandum entitled "Need for Special Subcommittee on Indian Education" was included.

Without quoting at great length, I would like to bring to the attention of this body Senator FANNIN's remarks that indicate his depth of knowledge, concern, and penetrating analysis of the subject matter. The Senator pointed out—statistically—the sad plight of the American Indian not only educationally, but in terms of unemployment, housing, life span, infant mortality rates, and then stated that "more troublesome than the statistics we do know are those we do not know." Other areas of emphasis in the memorandum included "such vexing questions as the amount of emphasis the curriculum should give to Indian languages, history and culture" and "the best way to train teachers for these students" and whether past legislation "has worked and whether new approaches are required or a different emphasis desirable." The most moving statement was when the Senator succinctly summarized the position of Congress in these few words:

We cannot legislate in the dark.

Our subcommittee study is done now and before the Congress for consideration. It has been a long and difficult task, the subcommittee ably chaired by the gentleman from Massachusetts. We have managed to bring together one of the most comprehensive pictures of Indian education ever made and we have presented the case thoroughly documented with recommendations possible of accomplishment. A great deal of effort has been expended by all concerned, tremendous interest has been shown on the part of Congress, the Federal and State Governments, Indians, specialists in the field, and the general public—during the life of the subcommittee and its investigations.

Our task was to study the problem of Indian education—in all its scope and complexity—with particular emphasis placed on Indian concern, opinions and aspirations. As we stated in the introduction to our report:

The ultimate test of this report is whether or not we have listened, understood, and given voice to their concern and aspirations.

EXHIBIT 1

SUPPLEMENTAL VIEWS

The undersigned minority members of the subcommittee gave support to the study and report, consistent with the historic sponsorship and support of constructive action in education on a bipartisan basis.

CONTRIBUTIONS OF THE MINORITY

We are particularly gratified to note that some earlier misunderstandings between the minority and majority have been dispelled and that in drafting this report full and fair consideration was given to proposals advanced by the minority. As a result, some important major recommendations by Republican members were included in the report as finally approved. These include—

(1) Recommendation No. 16 that there be established a National Indian Board of Indian Education with authority to set standards and criteria for Federal schools;

(2) Recommendation No. 17 that Indian boards of education be established at the local level for Federal Indian school districts;

(3) Recommendation No. 15 that the Commissioner of Indian Affairs be upgraded to Assistant Secretary and that the Bureau of Indian Affairs be upgraded accordingly;

(4) Recommendation No. 6 for the presentation to Congress of a comprehensive Indian education act to meet the special needs of Indian children both in Federal and public schools;

(5) Recommendation No. 12 for full funding for the National Council on Indian Opportunity;

(6) Recommendation No. 52 that Johnson-O'Malley funding should not be conditioned by presence of tax-exempt land;

(7) Recommendation No. 9 that the HEW Civil Rights Enforcement Office investigate discrimination against Indians in schools receiving Federal funds;

(8) Recommendation No. 18 that Indian parental and community involvement be increased;

(9) Recommendation No. 20 that the Departments of Interior and Health, Education, and Welfare, together with the National Council on Indian Opportunity, devise a joint plan of action to develop a quality education program for Indian children;

(10) Recommendation No. 25 that BIA boarding school guidance and counseling programs be substantially expanded and improved;

(11) Recommendation No. 37 to strengthen title III (developing institutions) of the Higher Education Act to include recently created higher education institutions for Indians on or near reservations;

(12) Recommendation No. 38 to expand the Education Professions Development Act, the Higher Education Act, and the Vocational Education Act to include BIA schools and programs;

(13) Recommendation No. 58 that State and local communities should enocurage and facilitate increased Indian involvement in the development and operation of education programs for Indian children;

(14) Recommendation No. 59 to appoint Indians to U.S. Office of Education advisory groups; and

(15) Recommendation No. 60 that the BIA should have the same responsibility to the U.S. Office of Education for set-aside funds under Federal grant-in-aid education programs as do the States for similar programs.

In addition, the minority was also responsible for minor and technical contributions to the report.

Finally, we take especial pride in the key role in the creation of the subcommittee played by Senator Paul Fannin, of Arizona, the subcommittee's ranking minority member during the 90th Congress. As the late Senator Robert F. Kennedy stated at the opening hearing on December 14, 1967:

The stimulation for the establishment of this subcommittee came from my colleague, Senator Fannin, of the State of Arizona, who has always been interested in Indian education.

OPPOSITION TO RECOMMENDATION FOR SENATE SELECT COMMITTEE

While endorsing the greater part of the report, we do take exception to the recommendation that there be established a Senate Selection Committee on the Human Needs of the American Indian.

A Senate select committee is not a legislative committee. It may only investigate and study and is not empowered to consider and report legislation. Thus, the recommended select committee would mean yet more additional studies of Indian problems. There is a surfeit of such studies.

The Indian Education Subcommittee, over a period of more than 2 years, has produced six volumes of hearings and a volume of appendix, five committee prints, 14 consultant reports, and a final report. This comes to a total of approximately one page of study for every 35 school-age Indian children, aged 5 to 18.

In addition, the subcommittee is recommending that other studies be undertaken—by the White House Conference on American Indian Affairs and by the National Indian Board of Indian Education. However, these studies possess a significantly different dimension, for they will be studies conducted by Indians about Indian problems, whereas the select committee would be just another in a series of governmental study efforts dominated by non-Indians. By utilizing studies by Indians about Indians instead of surveys by government bodies or by non-Indian academicians, we will be making the transition from reliance on Indian experts, as at present, to a reliance upon expert Indians. The latter course seems the wisest and in the best tradition of government by the consent of the governed.

A PLEDGE

For too many years study after study and report after report have been issued looking toward improvement of the lot of our Indian citizens which, while resplendent with promise, have come to naught. We stress realization over promise, especially as concerns what is perhaps the most important recommendation contributed by the Republican membership of the subcommittee; namely, a means to achieve the guidance by Indians themselves of the education of their own children through national and local Indian boards of education.

To achieve these goals, we pledge to work for realization of the recommendations contained in this report so that the education of Indian children shall be, in accord with the precepts set forth by President Abraham Lincoln, of, by, and for the Indian people.

PETER H. DOMINICK.
GEORGE MURPHY.
WILLIAM B. SAXBE.
RALPH T. SMITH.

Mr. MURPHY. Mr. President, I want to associate myself with Senator DOMINICK's remarks, particularly with his praise of Senator FANNIN, a real expert on Indian education and other Indian problems.

It was at the urging of Senator PAUL FANNIN of Arizona that the Senate Labor and Public Welfare Committee created the Indian Education Subcommittee. This landmark report being filed in the Senate today and appropriately titled "Indian Education: A National Tragedy—A National Challenge," is a result of extensive hearings, field investigations, and work by the subcommittee under the chairmanship first of the late Senator Robert Kennedy, who was succeeded by Senator EDWARD KENNEDY. I am particularly grateful for the leadership by the ranking Republican member of the Subcommittee, Senator DOMINICK of Colorado.

There are approximately 600,000 Indians in America today, 400,000 of whom live on or near reservations in 25 States. California has the second largest Indian population in the Nation. It is estimated that approximately 100,000, or one-sixth of the total Indian population in the country, reside in California.

Statistics regarding the "first American" are shocking. They show that 50 percent of Indian youngsters drop out before completing high school;

Among our largest tribes, the Navajos, there is a 30-percent illiteracy rate; and

The overall educational achievement of the Indian is only 5 years.

Evidence continues to grow regarding the correlation between educational achievement and earning levels. Therefore, it is not surprising that economic statistics are similarly depressing. They reveal:

That the average Indian income is $1,500, which is 75 percent below the national average;

That his unemployment rate is 40 percent, which is 10 times the national average;

That the incidence of tuberculosis among Indians is seven times the national average; and

That his lifespan is considerably less than the national average.

These statistics are true despite a doubling of appropriations for Indian programs during the last decade and a growth of a Bureau that today has 16,500 employees, one for every 36 Indians in the United States. Although I wish these statistics were not true in California, I regret that the California statistics, although better than the national average, nevertheless confirm the depths of the Indian education problems. For example, a 1966 report by the State Advisory Commission on Indian Affairs found that high schools with large Indian enrollments had a dropout rate three times higher for Indians than non-Indians. Some schools reported dropout rates for Indians ranging from 30 percent to 75 percent.

I was only appointed to the Indian Education Subcommittee this year, and shortly after my appointment, I testified before the Committee making two major recommendations. I called for: First, the restoration of Johnson-O'Malley funds to California Indians, and second, a transfer of the administration of Indian education from the Bureau of Indian Affairs in the Interior Department to the Department of Health, Education, and Welfare.

In my testimony, I labeled the restoration of Johnson-O'Malley funds to California as the most pressing need in Indian education in my State. The California State Legislature has memorialized Congress to restore Federal services including Johnson-O'Malley funds to California Indians. Incidentally, I am working closely with Secretary Finch and Governor Reagan in an effort to restore some Indian health services which are also direly needed by California Indians.

I described the need and traced the loss of Johnson-O'Malley funds in California as follows:

The most pressing need in my state is for the restoration of Johnson-O'Malley funds. The Johnson-O'Malley program provides financial aid to states for educational programs for Indians, California's eligibility for the program was finally terminated in 1958. Although there were various reasons for the phasing out of the Johnson-O'Malley program in California, including the feeling that California would adequately fill the

gap resulting from the loss of these federal funds and give the Indians an adequate education and the belief that the federal government would terminate the reservation policy nationwide, the statistics, experience and events since the phasing out of the Johnson-O'Malley program in California show neither has occurred.

In addition, my examination of the other arguments advanced in support of the ending of the Johnson-O'Malley funds in California convinced me that they are equally erroneous. That the Johnson-O'Malley funds are vitally needed in California is generally agreed. For as the State Advisory Commission on Indian Affairs in a June, 1967 report noted, the Indians in California "have become lost in the 'big picture' of education in California . . . The solution to the above-stated problems and deficiencies encountered in the education of California Indian students can be found in a re-implementation of the Johnson-O'Malley program in California."

Since the phasing out of the Johnson-O'Malley program, the record indicates that the California Indian both educationally and economically was not only failing to hold his own with his contemporaries but is actually falling further and further behind. When the reason or rationale for a law no longer exists, the law itself should not exist either. This should also apply to the Johnson-O'Malley exclusion of California Indians.

It is estimated that since fiscal year 1953–54, the state of California and the California Indians have lost $3.5 million because of the ending of the Johnson-O'Malley program. In 1953, California's percentage of the nationwide Johnson-O'Malley funds of approximately $2.6 million was 12 per cent. With the total federal funds now reaching approximately $8 million, a 12 per cent share for California would come to $960,000. While California might not actually receive this amount, it is clear that substantial sums would be forthcoming which would help meet the great educational needs that do exist.

There is no question that the Johnson-O'Malley funds could be put to tremendous use in my State for there is a great need, for example, for an assignment within the State department of education of a person to be employed as an Indian education expert. With the restoration of this program, I am confident that the State would move ahead and create such a post.

I am pleased, Mr. President, that the Indian Education Subcommittee has followed my recommendation by urging that Johnson-O'Malley funds should be based on need and on evidence that the funds will be used to meet those needs. The case for returning Johnson-O'Malley funds has been made long ago. I urge the Bureau of Indian Affairs to restore Johnson-O'Malley funds to California immediately. Mr. President, today I have sent the following telegram to BIA Commissioner Bruce once again urging restoration of Johnson-O'Malley funds to my State:

Indian Education Subcommittee has filed its Report in the Senate today documenting once again the critical need for restoration of Johnson-O'Malley funds to California. Once again I urge the Interior Department to restore Johnson-O'Malley funds to my state. Such action would indicate that the Bureau of Indian Affairs is taking the Indian Education Report seriously and I am sure would be welcomed by all members of the Indian Education Subcommittee.

On the important issue of administration, I, as previously indicated, urged the transfer of Indian Education to the Department of Health, Education, and Welfare. Indian health has already been transferred to HEW and the improvement of Indian health programs has been significant in its new home. However, there was and is considerable concern, disagreement, and suspicion by the Indians on this issue. Every time someone tries to come to grip with the problem of administration, the bogeyman of termination has been raised and spread among the Indians. The Indians fear that the Federal Government's special-relationship and services that they receive will be terminated. Vice President AGNEW emphatically told the Indians at the recent conference at Albuquerque, N. Mex., that the administration opposed termination. I am hopeful that we might bury this fear so that whatever action is needed to improve the present conditions of the American Indian and the present organizational structure will take place. Personally, I am convinced that the Indians themselves will ultimately agree with my recommendations of transferring Indian education programs to HEW.

Our committee thus faced a dilemma. Change and administrative shakeup was greatly in order. Yet the smokescreen of termination prevented us from getting agreement by the Indians and prevented us from resolving this critical issue.

I am pleased that the Republicans on the committee came up with a creative solution to this impasse. First, we proposed and the committee adopted as its recommendation the upgrading of the Commissioner of Indian Affairs to that of Assistant Secretary of Interior and Commissioner of Indian Education. This upgrading will give the Commissioner of the Bureau of Indian Affairs direct access to the Secretary of Interior rather than going through layers of bureaucracy at the Interior Department. This upgrading will give the Commissioner direct line authority over BIA schools, thus cutting away additional bureaucrat layers of noneducational experts at the working and field levels.

Second, we recommended and the committee accepted as part of their recommendations, the establishment of a National Indian Board of Education.

The basic idea here is that BIA, or Federal Indian schools, should have a school board with powers and responsibility comparable to the State boards of education. The importance of this board in the eyes of the subcommittee can be seen by the fact that board members would be appointed by the President of the United States. Also, the subcommittee hopes that this board, a proposed White House conference, and an adequately funded National Council on Indian Opportunity will provide the mechanism and leadership necessary to resolve the question of organization and other important Indian education issues.

Third, the minority recommended and the subcommittee adopted a proposal for the creation of local school boards which would be analogous to local boards of education across the country. President Johnson 2 years ago directed the establishment of local Indian boards of education at BIA schools. For all practical purposes, the bureaucracy completely ignored this presidential directive as the subcommittee found that only two, I believe, of these boards were actually established.

Mr. President, the intent of these minority proposals is to allow the Indians to control their own destiny, to run their own schools. Throughout hearings the Rough Rock Demonstration School in Arizona was cited and applauded as the most exciting experiment in Indian education, and it should be noted that the creation of this school resulted primarily from agencies and organizations outside of BIA.

Mr. President, the Indians have always recognized the importance of education. Mr. Rupert Costro, president of the American Indian Historical Society, which is located in California, pointed this out in testimony before the subcommittee as follows:

In our contact with the whites, we have always and without fail asked for one thing. We wanted education. You can examine any treaty, any negotiations with the American Whites. The first condition, specifically asked for by the Indian tribes, was education. What we got was third-rate, lefthanded, meager, miserly unqualified training, with the greatest expenditure of federal funds and the least amount of actual education for the Indian himself.

Mr. President, the challenge has been laid before us. As I said before the Indian Education Subcommittee earlier, I intend to do whatever I can to bring about a substitution of results and performances for the rhetoric and promises that have been made to the American Indian for over a century.

Finally, Mr. President, I ask unanimous consent that the committee's discussion of the Johnson-O'Malley Act, its recommendations with respect to this act, and the committee's recommendation dealing with the question of administration of Indian education be printed in the RECORD.

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

JOHNSON-O'MALLEY ACT, APRIL 16, 1934

The Johnson-O'Malley act authorized the Secretary of Interior to contract with State or territories for the education, medical attention, agricultural assistance, and social welfare of Indians in the State.[1] In 1936 the act was amended to its present form. The amendment expanded the contracting authority of the Secretary of the Interior, giving him the authority to contract with State universities, colleges, schools, or with any appropriate State or private corporation, agency, or institution.

The intent of the act as expressed in the identical reports submitted to each House of Congress, was to "arrange for the handling of certain Indian problems with those States in which the Indian tribal life is largely broken up and in which the Indians are to a considerable extend mixed with the general population."[2] The report noted that in many areas Indians are mixed with the white population, and therefore "it becomes advisable to fit them into the general public school scheme rather than to provide separate schools for them."[3] The act thus gave legislative authority to the Bureau's policy of gradually turning over its education function to the public schools. The act also facilitated Federal-State cooperation by making con-

Footnotes at end of article.

tracts negotiable at the State level rather than the local. It has become one of the primary means of Federal subsidization of Indian education.

In 1935, California became the first State to contract for and under Johnson-O'Malley, and by 1940, contracts had also been negotiated with Arizona, Minnesota, and Washington.[4] By 1951, 14 States and five districts within States were receiving $2,505,933 in Johnson-O'Malley funds. The estimated expenditure for fiscal 1969 is $11,552,000, or approximately $174 per student.[5]

Since the act's inception, the number of Indian students in public schools has increased to about two-thirds of all Indian students. Although the act brought about increased enrollment of Indians in public schools, its success in meeting the educational needs of those students is open to serious question.

Why hasn't the Johnson-O'Malley act dealt adequately with the needs of Indian students? The problem lies not so much with the act itself, as with the manner in which it has been interpreted. For though the language of the act is broad, its interpretation has been narrow, and therefore the intent of the legislation has not been realized.

The Bureau of Indian Affairs, for example, has adopted a more restricted eligibility requirement than that suggested by Congress. Congressional intent was to service Indians in States "in which the Indian tribal life is largely broken up and in which the Indians are to a considerable extent mixed with the general population."[6] The Bureau's policy is to serve Indian children (one-fourth or more Indian blood) "whose parents live on or near Indian reservations under the jurisdiction of the Bureau of Indian Affairs." The policy statement declares that "the tax-free status of land where the parents live will be the major consideration in determining the eligibility of the children."[7]

Despite the act's expressed intent to deal only with Indian needs, the Johnson-O'Malley money has been traditionally used by school districts to supplement their general operating budget, thus benefiting all their students. The Code of Federal Regulations (1958) sanctions this use by stating that Johnson-O'Malley money can be used to meet the financial needs of those school districts which have "large blocks of nontaxable Indian-owned property * * * and relatively large numbers of Indians which create situations which local funds are inadequate to meet."

Use of the money for "meeting educational problems under extraordinary and exceptional circumstances" is limited by regulation to those districts which receive Public Law 81–874 money to meet partial costs of normal school operation. (Public Law 81–874 funds provide "in lieu of taxes" money to districts which, because of the presence of tax-exempt land, need additional money for normal school operations.) With the inclusion of Indians in Public Law 81–874 in 1958, that law took care of some of the basic support money heretofore provided by Johnson-O'Malley. Yet the policy of the Bureau continues to place the tax-exempt status of land as the prime determiner of Johnson-O'Malley eligibility rather than educational need.[8]

The Johnson-O'Malley money not used for basic support (operation and maintenance) is used to provide lunches, transportation, administrative costs and—occasionally—special instructional services. Twenty to twenty-five percent of Johnson-O'Malley expenditures are for school lunches for Indian students, as compared to 3.8 percent of Title I, ESEA, expenditures for feeding programs. About 5 percent of the annual expenditure is for administration, and amount generally in the line with expenditures for administration under the ESEA. For example, Indian Education directors in State departments of education which hold Johnson-O'Malley contracts are paid out of the Johnson-O'Malley appropriation. The Bureau reports that in 1969, it budgeted 30 percent of the funds for "special services."

In some States, special services means providing bus service for Indian children. In others it means buying volleyball standards and tumbling pads. Some use it to pay off the mortgage on a bus, increase teacher salaries, or hire attendance officers. In a few cases it is used to hire teacher aides and provide libraries and study halls for Indians. There is no detailed accountability of the use of the money.

Today, 35 years after it was originally adopted, it is still highly questionable if the Johnson-O'Malley Act is fulfilling the intent of Congress. It is true that more Indians are in public schools, but it is doubtful if the needs of these Indian children are being met any more than they were 35 years ago.

Conflict With Public Law 874

One of the main problems with the act has been the conflict between it and Public Law 874. Public Law 874 provides funds for school districts which educate large numbers of children whose parents live or work on tax-exempt property. The law became applicable to Indians in 1958, and since that time, school districts educating Indian children have received compensation for the nearby presence of tax-exempt reservations.

Congress never intended that duplicate payments should be made to the same school for the same purpose by two different Federal agencies. But often, both Public Law 874 and Johnson-O'Malley money do just that. The Federal regulation permits such use of Johnson-O'Malley money when Public Law 874 funds are insufficient for general school operations.[9] Few local administrators are likely to admit they have enough money for normal school operations when they know they can get more, and thus Johnson-O'Malley is continually drained for normal operating budget purposes.

Dr. Alphonse Selinger of the Northwest Regional Educational Laboratory testified before the subcommittee that he had encountered at least one principal who admitted giving passing grades to Indian students only to keep them in school so the district could receive Johnson-O'Malley money. Officials from two different schools told Dr. Selinger there was very little they could do for Indian children, so they kept them in the school for the additional funds they brought into the system.[10]

Generally, though, the regulation limits Johnson-O'Malley funds to districts not qualifying under Public Law 874 and to those Public Law 874 districts in which there are "educational problems under extraordinary and exceptional circumstances." (To qualify under Public Law 874 a district must meet a 3-percent impact requirement and have a minimum daily attendance of 10 federally connected pupils.)[11] In practice, the money is used as a budget-balancing device for those districts receiving Public Law 874 money. Johnson-O'Malley makes up the difference between a district's education expenditures and its revenues after Public Law 874 has been included.[12]

When Public Law 874 became applicable to Indians in 1959, the Johnson-O'Malley budget suffered considerably. The 1959 Johnson-O'Malley appropriation of $7,953,000 was cut to $5 million in 1960. Although Johnson-O'Malley and Public Law 874 serve different functions, Public Law 874 was, and continues to be, interpreted by BIA officials as replacement money for Johnson-O'Malley.

The problem with a school district replacing Johnson-O'Malley funds with Public Law 874 aid is that there is no guarantee the Public Law 874 money will be used to benefit Indian students. Such money goes to the school district itself, and any benefit received by Indian children would only be indirect. Johnson-O'Malley funds, though, are supposed to aid only Indian children.[13]

Congress also has no control over the use of Public Law 874 money. School districts apply it in their operating budget as they see fit. The Federal Government is prohibited from setting standards for its use or requiring, for example, that it be used for special Indian needs.

Excludes Many Indians

A most important problem with Johnson-O'Malley is that, as presently administered, it excludes from participation Indians who have left the reservation. Thousands of such Indians now live in urban areas, where Indian children attend public schools. Their needs are being ignored just as much there as in rural areas. In Minneapolis, Minn., for example, an estimated 10,000 Indians live in the city. The Indian dropout rate in the city's public school system is more than 60 percent.[14] Some 45,000 Indians live in California cities.[15] The Indian dropout rate in public schools throughout the State is about 70 percent.[16] Most urban school districts are not eligible for either Johnson-O'Malley or Public Law 874 because the Indian parents do not live or work on tax-exempt reservations. Thus there Indians are not eligible for the special-needs funds Congress intended for them.

A special case exemplifying Johnson-O'Malley problems can be found in California, where some 80,000 Indians are now without Johnson-O'Malley assistance. The first State to enter into a contract with the BIA under this act, California has since had its Johnson-O'Malley program phased out. It was completely terminated in 1958.

The reasons for the withdrawal of services are many. Many people, including BIA personnel, were under the impression that the termination policy espoused in the midfifties would lead to termination of all Indian aid policies, and California seemed as good a place as any to start cutting programs. There were some who claimed Indians were already receiving an adequate education in California without Federal funds. Others were led to believe—falsely—that Public Law 874 and Public Law 815 would adequately replace Johnson-O'Malley funds. Then in 1953, California's annual Johnson-O'Malley funding of $318,000 was reduced by $50,000. The California appropriation was reduced another $50,000 every year until by 1958, nothing was appropriated.

Noting such evidence as the fact that California high schools with relatively large Indian enrollments have dropout rates three times higher for Indians than for non-Indians, California has sought the return of Johnson-O'Malley money. California educators have argued that many Indians have educational problems requiring special attention and that Public Law 874 has not replaced the need for Johnson-O'Malley funds. But the BIA appears to be following a policy of "once withdrawn, always withdrawn," and thus California Indians continue without the moneys for programs to meet their special needs.[17]

Three other eligible States west of the Mississippi are not under Johnson-O'Malley State contracts. Oregon terminated its contract after being led to believe that Public Law 815 and Public Law 874 would take care of the education of the Indian, and that the BIA intended to terminate all services to Indians shortly anyway. Utah terminated its contract because officials felt the State could get more money under Public Law 874 than Johnson-O'Malley.[18]

In 1969, Wyoming sought a State contract for its Indians, but has been unable to get approval from the Bureau's Washington office. Wyoming school officials claimed their plan called for liaison people between Indian communities and school districts to assist in developing better relationships between the

Footnotes at end of article.

two groups. The Wyoming State education superintendent said the BIA completely rewrote the State's proposed plan, and that the "watered-down" version offered in its place was hardly worthwhile.[19] Bureau officials have indicated their reluctance to give Wyoming Johnson-O'Malley money because they contend that Public Law 874 money is adequately serving the needs of Indians in Wyoming public schools.[20]

Complaints are innumerable regarding the administration of Johnson-O'Malley. For one thing, the levels of aid are extremely uneven. In 1967–68, Alaska received $690 per Johnson-O'Malley pupil while Oklahoma received $37. Arizona received $236 per pupil while neighboring New Mexico received $135. Even within States, the levels vary greatly. In 1966–67, Santa Fe County, N. Mex., received $310 per Johnson-O'Malley pupil, while McKinley County (Gallup), N. Mex., received $41. According to Dr. Anne M. Smith, anthropologist and author of "Indian Education in New Mexico," "It has not proved possible to discover on what policy basis the allocation of funds is made.[21]

One State, Arizona, has been reducing State aid to districts which receive Johnson-O'Malley funds. Several States were doing the same thing with regard to Public Law 847 money, but the courts ruled against the practice. (See, for example, *Shephard* v. *Godwin*, 280 F. Supp. 869, 1968) BIA officials are hopeful the Arizona legislature will resolve the problem before court action is necessary.

Poor Accountability

A major problem with the Johnson-O'Malley program is poor accountability of the funds administered. The legislation requires the State or contracting district to submit an annual report showing expenditures, but far too often these reports are summary and undetailed. Except for a school enrollment data form, there is little uniformity in reporting techniques. One State, for example, will report transportation expenditures under basic support, whereas another State will report such expenditures under special services. In neither case is an explanation of the purpose of the transportation given. The special services sections are almost entirely devoid of meaningful explanations of the services provided.

The reports also provide no evaluation of the previous year's programs. There is apparently never any attitudinal or achievement testing to test the effect, if any, the Johnson-O'Malley programs in particular school districts are having upon Indian students.

Utilizing the Amendment

The Bureau of Indian Affairs has not been particularly creative in using the expanded contracting authority granted by the 1936 amendment to the act for educational projects. This amendment authorized the Bureau to contract Johnson-O'Malley projects with State universities, and institutions. In the past the amendment has been used for such contracts as those with: (1) The Idaho Elks Rehabilitation Center at Boise for the care of Alaska native children in specialized schools; (2) The Utah School for the Deaf and Blind, for its Indian patients; and (3) The Salvation Army Booth Memorial Home at Anchorage for the care of native children and eligible adults.

In recent years, the contracting authority has been used for more innovative programs. Johnson-O'Malley money went to the Rough Rock Demonstration School, for example, since it was a nonprofit corporation. A contract was negotiated with the University of Alaska to develop a model of a cultural and educational center for Alaskan natives. And most recently, a contract has been negotiated with the United Tribes of North Dakota, set up as a nonprofit corporation, for the operation of a training center.[22]

Footnotes at end of article.

Lack of Indian Participation

Johnson-O'Malley is supposed to serve the needs of Indian students, but Indians rarely get an opportunity to decide how the money should be spent. The proposals are usually drawn up by school administrators of white, middle-class backgrounds who direct the money toward general school operations or problem-solving techniques which might work for the middle-class student, but not the Indian. The people who are affected most by the law have little to say about how the money should be used to help their children.

New Approaches by the BIA

In recent years, the Bureau has looked at Johnson-O'Malley a little more imaginatively than in the past, and has funded a few programs which deal more specifically with the needs of Indian students. A home-visitation program in Oklahoma, for example, is working to improve relations between the Indian home and the school. A night study hall for Indians was established in Nevada. Teacher workshops designed to help teachers in dealing with the special needs of Indian students have become more common. A resource center which sends out a circuit rider is now operating in Alaska. In an attempt to get away from the institutional boarding school concept, Johnson-O'Malley money is also being used to set up a home boarding program so that students can live-in with families. Bureau officials also have their sights on Johnson-O'Malley kindergarten programs as well as model school programs for each State with a Johnson-O'Malley contract.

To streamline Johnson-O'Malley procedures, the Bureau tries to confer regularly with State education officials so that the States can share information and hear new Johnson-O'Malley approaches. Two field men, one in Albuquerque and one in Aberdeen, devote a good share of their time to working with State directors and tribal groups in helping them formulate the best possible Johnson-O'Malley budget. The field men are also expected to meet with tribal groups and consider their recommendations for Johnson-O'Malley usage. Bureau officials report that funding for this kind of activity is low, and that such activity often has to be conducted on a limited basis.

THE TRANSFER POLICY

Despite evidence of the failure of the public schools to provide Indian students with an adequate education and despite the absence of a commitment by local, State or National authorities to provide Indians with an equal education, the Bureau of Indian Affairs continues its policy of transferring Indians into public schools. Between 1930 and the present, the number of Indian students attending public schools has increased from one-half to two-thirds of all Indian students enrolled in schools. In 1926, about 37,700 Indian students were in public schools.[23] In 1968 there were about 90,000.* Nine States (California, Idaho, Michigan, Minnesota, Nebraska, Oregon, Texas, Washington, and Wisconsin) had assumed complete responsibility for educating Indians within their States.

1. Analysis

The transfer procedure employed by the Bureau has been discretionary. When the Bureau felt a public school was ready to handle Indian students, the change was effected. The transfer was often a gradual process, involving a phasing out of the educational services at the Indian school.

RECOMMENDATION NO. 48

Johnson-O'Malley Act

The subcommittee recommends that each state applying for a Johnson-O'Malley contract should be required to submit a definite plan for meeting the needs of its Indian students.

Too often the plans submitted by States are vague and meaningless, specific programs are rarely outlined, and there appears to be no concerted attack on the problems of the Indian. State plans should detail the use for which Johnson-O'Malley money will be put, and explain how the JOM contribution fits into the statewide plan for helping meet the special needs of Indian students.

RECOMMENDATION NO. 49

The subcommittee recommends that better accountability and evaluation procedures should be instituted at the State and local levels.

The Bureau of Indian Affairs should require improved evaluation components at the State and local levels. The only accountability measures now are a State's annual report, which vary tremendously in quality and content. Some uniform data collection technique should be established, and States should be required to report the results of their JOM programs rather than just the fact that such programs were in operation.

It is a fair measure of the BIA's lack of concern for the education of Indian children in public schools that the subcommittee could find no evidence of any serious effort by the BIA to assure that JOM funds were used for educational programs for Indian students. The funds are given to local public school districts, which often use the money for general educational purposes rather than the special needs of Indian students. The subcommittee cannot emphasize too strongly that these funds are to be used for the education of Indian children only, and that the BIA should condition their release upon that purpose with proper accountability.

RECOMMENDATION NO. 50

The subcommittee recommends that Indians should be involved in the planning, executing and evaluating of Johnson-O'Malley programs. A State or district's JOM plan should be subject to the approval of the Indian participants.

The Bureau of Indian Affairs, as a prerequisite to JOM contract approval, should require Indian participation in the planning, execution, and evaluating of JOM plans. Indians should be involved at both the local and State levels in formulating the JOM budget request, and in seeing that the plan is carried out. All proposals and plans must be approved by those Indians participating.

RECOMMENDATION NO. 51

The subcommittee recommends that technical assistants should be hired by the BIA to work with local agencies, State departments of education and Indian participant groups in helping to identify special Indian needs and in developing programs which would meet those needs.

The assistants should be Indians who can serve as special consultants to the parties involved in order that the best possible JOM contract can be negotiated. They should not be desk-bound nor assigned to such an expansive territory that they are unable to get out into all parts of the field.

RECOMMENDATION NO. 52

The subcommittee recommends that Johnson-O'Malley funding should not be conditioned by presence of tax-exempt land.

The criteria for approval of a Johnson-O'Malley contract should be: (a) an exhibited need for programs aimed at meeting the special needs of Indian students, and (b) a proposal which details how those needs will be met. The presence of nontaxable Indian land should not have any bearing in determining the eligibility of children for JOM money. When the law originally was passed, congressional intent was for the act to serve primarily those Indians who were "to a considerable extent mixed with the general population." That intent has not been fulfilled.

RECOMMENDATION NO. 53

The subcommittee recommends that the expanded contracting authority authorized

by the Act's 1936 amendment should be utilized for the development of curriculum relevant to Indian culture and the training of teachers of Indian students.

Only in recent years has the Bureau shown some creativity in utilization of the expanded contracting authority. This amendment offers far greater potential for innovative educational projects than has been demonstrated. It could be a very good vehicle, for example, to improve curriculums for Indian students, and to train teachers who will be teaching Indian students. Universities and nonprofit corporations might be contracted to develop special curriculums which recognize Indian culture, and to develop and institute teacher-training programs which include a recognition that teachers of Indian students have special responsibilities.

RECOMMENDATION NO. 54

The subcommittee recommends that tribes and Indian communities should be added to the list of agencies with which the Bureau of Indian Affairs can negotiate Johnson-O'Malley contracts and that full use be made of this new contracting authority to permit tribes to develop their own education projects and programs.

The subcommittee has found that very few Indian tribes and communities have developed educational plans which identify problems and establish goals. However, the subcommittee was impressed by the fact that Indian communities have a better understanding of their education needs and problems than the schools that serve them. The schools rarely understand the Indian community and cultural differences, and the Indian community rarely has any influence on the school. Johnson-O'Malley contracts with Indian tribes and communities could do much to break down these barriers, and place the initiative and responsibility for change and improvement in the hands of those who best understand the problems.

Johnson-O'Malley contracts with Indian tribes and communities could serve a variety of important purposes. For example, tribal surveys and factfinding efforts to determine educational needs; the development of education plans and goals; developing effective liaison between Indian parents and public schools; developing Indian education leadership; planning, funding, implementation and evaluation of special education programs for Indian children in cooperation with public school districts; education programs and projects run directly by the tribe itself (for example, summer school programs).

The basic responsibility for development of this program should be vested in the National Indian Board of Education. It will require close coordination with the development of strong Indian school boards on those reservations with Federal schools.

An important and promising precedent for this tribal-contracting approach has recently been initiated by the Indian Health Service. The Indian community health representative program is worthy of careful study by the National Indian Board of Education to determine its applicability to the field of Indian education.

ADMINISTRATION OF INDIAN EDUCATION

The most difficult question confronting the subcommittee was what organizational changes are necessary if Indian schools are to become "models of excellence" in terms of both program and Indian control. The subcommittee has found that the Bureau of Indian Affairs suffers from a severe bureaucratic malaise, which militates against change and innovation as well as actively discourages Indian control. The present structure of the Federal school program, as an integral part of the Bureau of Indian Affairs, places primary control over educational decisionmaking in the hands of area directors and noneducators. It destroys educational leadership and rewards mediocrity. It is therefore not possible to conceive of change and improvement in the present structure. If an exemplary program is to be developed, it will require a radical and comprehensive reorganization.

The subcommittee recommends (a) That the position of the Commissioner of the Bureau of Indian Affairs be upgraded by giving him the concurrent title of Assistant Secretary for Indian Affairs, (b) That the Bureau of Indian Affairs be removed from the authority of the Assistant Secretary for Public Land Management and be placed under the authority of this new Assistant Secretary for Indian Affairs.

At present, the BIA is one of four bureaus under the Assistant Secretary for Public Land Management. The four are: the BIA; the Bureau of Land Management; the Bureau of Outdoor Recreation; and the Office of Territories. This Assistant Secretary is thus principally concerned with the conservation, management, and development of some 453 million acres of the nation's public lands, and the administration of mining and mineral leasing on federally owned lands. He is also the focal point of Federal activities related to outdoor recreation.

It is perfectly plain that the present administrative arrangement short-changes the BIA, which must compete with other bureaus (whose interests are diametrically opposed) for the Assistant Secretary's attention.

The present arrangement has resulted in inadequate budget levels, neglect of educational programs and problems, and lack of forceful leadership for improvement. The change in placement and status of the BIA should permit higher budget levels, more effective leadership, and more rapid innovation.

There exist ample precedents for this dual title. For example, in the Department of Housing and Urban Development, the Assistant Secretary for Mortgage Credit is also the Commissioner for Federal Housing. Furthermore, the Commissioner of the BIA, Hon. Louis Bruce, endorsed this step in a meeting with the subcommittee on Oct. 2, 1969.

The subcommittee recommends that there be established a National Indian Board of Indian Education with authority to set standards and criteria for the Federal schools.

Structurally, this recommendation is patterned after the organization of education in the States, with the National Indian Board of Indian Education as the centerpoint of citizen participation much as is the State Board. It would, as do the counterpart boards in the States, have oversight over the operations of the schools and have authority to set standards and criteria and determine policy within the framework of the law. The National Board would receive funds for its operations.

The National Board would be composed of some fifteen members, representative of the Indian tribes and communities, serving staggered terms of three years. They would be appointed by the President from lists of nominees furnished by the Indian tribes and communities and would be eligible to serve no more than two consecutive terms. At least annually, but more often if necessary, the Board would submit to the Congress and to the President reports and recommendations for administrative action or legislation, thus giving the Indians themselves leverage in effecting change. The National Board could elect to ex officio membership no more than five non-Indian individuals expert in areas of concern to the Board.

The National Board would be authorized to utilize the expertise of the U.S. Office of Education, the Office of Economic Opportunity, and other Federal agencies.

While this recommendation envisions the appointment of the National Board, the subcommittee believes that the matter of election of the members of the National Board merits careful consideration. Therefore, the National Board should be empowered to establish the mechanism for electing the Board, and an equitable means by which such members might be elected. It should submit a plan for election of Board members, to the Congress, and to the President.

If this plan is not rejected by either House of Congress, following the procedure of congressional action as prescribed by law in the case of executive reorganization plans, then the election procedure would be put into effect.

The National Board would also be empowered to participate in the negotiation of contracts with individual tribes and communities to run local school systems for Indians.

The Board would present to the Department of Interior its suggestions for nominees for Assistant Commissioner for Education as well as presenting its views on any candidate that the Department may be considering for the post. Since the Assistant Commissioner for Education would be serving for one or more terms of 4-year duration, the National Board would have the foregoing review responsibilities also with respect to reappointment.

Finally, the National Board would serve in an advisory capacity with respect to Federal education programs involving Indians in the public schools. For example, the Board could review school district use of Johnson-O'Malley funds to assure they were being used for the needs of Indian students.

The subcommittee recommends that Indian boards of education be established at the local level for Federal Indian school districts.

The powers of such local boards would be similar to those powers traditionally held by local school boards. The boards, for example, would have supervision over curriculum and the hiring of faculty in the schools in their districts. Generally, they would have jurisdiction in Indian school districts containing elementary and secondary schools situated in a proper geographic, tribal, or community area. These boards would be either elected by the Indian district in which they would serve, or be appointed by the tribal or community authority there. It is assumed that the method of selection would vary from area to area. Approximately 80 percent of local boards throughout the country are elected.

In keeping with the practice throughout the Nation wherein the overwhelming majority of local school boards are elected, the subcommittee expresses the hope that local Indian boards will likewise be subject to election, keeping in mind that in a minority of areas, as elsewhere in the country, local preference may dictate that the board be appointed.

The local boards would have direct lines of communication with the National Indian Board of Indian Education, and would be empowered to convey to it recommendation for overall policy.

The subcommittee recommends that the Assistant Commissioner for Education of the Bureau of Indian Affairs be given the responsibilities of a superintendent of Federal schools, having direct line control over the operation of the schools, including budgets, personnel systems, and supporting services. It also recommends that the term of office of the Assistant Commissioner be limited to 4 years, subject to reappointment.

This would place the Federal school system outside of area office and reservation agency control, and leave the Federal school

Footnotes at end of article.

system as an autonomous unit within the BIA. Furthermore, it would permit the Assistant Commissioner much greater authority to negotiate with State and local school boards and agencies for augmented Indian education programs in the public schools.

The subcommittee urges that the Assistant Commissioner for Education retain decisionmaking authority over policy matters, and delegate only ministerial functions to his subordinates.

FOOTNOTES

* Division of Public School Relations, Bureau of Indian Affairs.

[1] 48 Stat. 596.

[2] H. Rept. 864, Mar. 2, 1934, and S. Rept. 511, Mar. 20, 1934.

[3] Ibid.

[4] Felix Cohen, "Handbook of Federal Indian Law," 1940 ed., p. 241.

[5] BIA Branch of Public School Relations.

[6] H. Rept. 864, Mar. 2, 1934.

[7] Indian Affairs Manual, 62 IAM 3.5.

[8] Indian Affairs Manual, 62 IAM 3.25.

[9] 62 IAM 3.27.

[10] Hearings before the Senate Subcommittee on Indian Education, pt. VI.

[11] Impacted areas legislation report and recommendation, prepared for Senate Subcommittee on Education by the U.S. Department of Health, Education, and Welfare, August 1965, pp. 537–538.

[12] Interview with Charles Zellers, BIA Assistant Commissioner for Education, May 22, 1969.

[13] 48 Stat. 596 (Johnson-O'Malley Act).

[14] Minnesota State plan for the education of Indian children, Minnesota Department of Education, 1969.

[15] "The Education of American Indian: An Evaluation of the Literature," Brewton Berry, p. 25.

[16] Ibid., p. 29.

[17] A Johnson-O'Malley educational program for California Indians, State Advisory Commission on Indian Affairs, June 1967.

[18] Ibid.

[19] Interview with Wyoming State Superintendent of Education, June 1969.

[20] Op. cit., interview with Zellers.

[21] Anne Smith, Indian Education in New Mexico, University of New Mexico, 1968.

[22] Interview with J. Leonard Norwood, BIA Acting Commissioner, June 1969.

[23] "The Problem of Indian Administration," Lewis Meriam, p. 416.

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

Mr. WILLIAMS of New Jersey. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2917.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 2917) to improve the health and safety conditions of persons working in the coal mining industry of the United States, which were to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Federal Coal Mine Health and Safety Act of 1969".

DECLARATION OF PURPOSE

SEC. 2. Congress declares that—

(a) the first priority and concern of all in the coal mining industry must be the health and safety of its most precious resource—the miner;

(b) The occupationally caused death, illness, or injury of a miner causes grief and suffering, and is a serious impediment to the future growth of this industry;

(c) there is an urgent need to provide more effective means and measures for improving the working conditions and practices in the Nation's coal mines in order to prevent death and serious physical harm, and in order to control the causes of occupational diseases originating in such mines;

(d) the existence of unsafe and unhealthful conditions and practices in such mines cannot be tolerated;

(e) the operators of such mines with the assistance of the miners have the primary responsibility to prevent the existence of such conditions and practices in such mines;

(f) the disruption of production and the loss of income to operators and miners as a result of a coal mine accident or occupationally caused disease unduly impedes and burdens commerce; and

(g) it is the purpose of this Act to provide for the establishment of mandatory health and safety standards and to require that the operators and the miners comply with such standards in carrying out their responsibilities.

DEFINITIONS

SEC. 3. For the purpose of this Act, the term—

(a) "Secretary" means the Secretary of the Interior;

(b) "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a place in a State and any place outside thereof, or within the District of Columbia or a possession of the United States, or between points in the same State but through a point outside thereof;

(c) "State" includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands;

(d) "operator" means any owner, lessee, or other person who operates, controls, or supervises a coal mine;

(e) "agent" means any person charged with responsibility for the operation of all or part of a coal mine or the supervision of the employees in a coal mine;

(f) "person" means any individual, partnership, association, corporation, firm, subsidiary of a corporation, or other organization;

(g) "miner" means any individual working in a coal mine;

(h) "coal mine" means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities;

(i) "work of preparing the coal" means the breaking, crushing, sizing, cleaning, washing, drying, mixing, storing, and loading of bituminous coal, lignite, or anthracite, and such other work of preparing such coal as is usually done by the operator of the coal mine;

(j) "imminent danger" means the existence of any condition or practice in a coal mine which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated;

(k) "accident" includes a mine explosion, mine ignition, mine fire, or mine inundation, or injury to, or death of, any person;

(l) "inspection" means the period beginning when an authorized representative of the Secretary first enters a coal mine and ending when he leaves the coal mine during or after the coal-producing shift in which he entered; and

(m) "Panel" means the Interim Compliance Panel established by this Act.

MINES SUBJECT TO ACT

SEC. 4. Each coal mine, the products of which enter commerce, or the operations or products of which affect commerce, shall be subject to this Act, and each operator of such mine and every person working in such mine shall comply with the provisions of this Act and the applicable regulations of the Secretary promulgated under this Act.

INTERIM COMPLIANCE PANEL

SEC. 5. (a) There is hereby established the Interim Compliance Panel, which shall be composed of five members as follows:

(1) Assistant Secretary of Labor for Labor Standards, Department of Labor, or his delegate;

(2) Director of the Bureau of Standards, Department of Commerce, or his delegate;

(3) Administrator of Consumer Protection and Environmental Health Service, Department of Health, Education, and Welfare, or his delegate;

(4) Director of the Bureau of Mines, Department of the Interior, or his delegate; and

(5) Director of the National Science Foundation, or his delegate.

(b) Members of the Panel shall serve without compensation in addition to that received in their regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of duties vested in the Panel.

(c) Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare, Secretary of Commerce, the Secretary of Labor, and the Secretary of the Interior shall, upon request of the Panel, provide the Panel such personnel and other assistance as the Panel determines necessary to enable it to carry out its functions under this Act.

(d) Three members of the Panel shall constitute a quorum for doing business. All decisions of the Panel shall be by majority vote. The Chairman of the Panel shall be selected by the members from among the membership thereof.

(e) The Panel is authorized to appoint as many hearing examiners as are necessary for proceedings required to be conducted in accordance with the provisions of this Act. The provisions applicable to hearing examiners appointed under section 3105 of title 5 of the United States Code shall be applicable to hearing examiners appointed pursuant to this subsection.

(f) (1) It shall be the function of the Panel to carry out the duties imposed on it pursuant to sections 202 and 305 of this Act and to provide an opportunity for a hearing, after notice, at the request of an operator of the affected mine or the representative of the miners of such mine. Any operator or representative of miners aggrieved by a final decision of the Panel under this subsection may file a petition for review of such decision under section 106 of this Act. The provisions of this section shall terminate upon completion of the Panel's functions as set forth under sections 202 and 305 of this Act. Any hearing held pursuant to this subsection shall be of record and the Panel shall make findings of fact and shall issue a written decision incorporating its findings therein in accordance with section 554 of title 5 of the United States Code.

(2) The Panel shall make an annual report, in writing, to the Secretary for transmittal by him to the Congress concerning the achievement of its purposes, and any other relevant information (including any recommendations) which it deems appropriate.

TITLE I—GENERAL

HEALTH AND SAFETY STANDARDS; REVIEW

SEC. 101. (a) The Secretary shall, in accordance with the procedures set forth in this section, develop, promulgate, and revise, as may be appropriate, mandatory safety standards for the protection of life and the prevention of injuries in a coal mine, and shall, in accordance with the procedures set

forth in this section, promulgate the mandatory health standards transmitted to him by the Secretary of Health, Education, and Welfare. No mandatory health or safety standard promulgated under this title shall reduce the protection afforded miners below that afforded by the standards contained in title II and III of this Act.

(b) In the development of such mandatory safety standards, the Secretary shall consult with interested Federal agencies, representatives of States, appropriate representatives of the coal mine operators and miners, other interested persons and organizations, and such advisory committees as he may appoint. In addition to the attainment of the highest degree of safety protection for the miner, other considerations shall be the latest available scientific data in the field, the technical feasibility of the standards, and experience gained under this and other safety statutes.

(c) The Secretary of Health, Education, and Welfare shall, in accordance with the procedures set forth in this section, develop and revise, as may be appropriate, mandatory health standards for the protection of life and the prevention of occupational diseases of coal miners. Such development and revision shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In the development of mandatory health standards, the Secretary of Health, Education, and Welfare may consult with appropriate representatives of the operators and miners, other interested persons, the States, advisory committees, and, where appropriate, foreign countries. Mandatory health standards which the Secretary of Health, Education, and Welfare develops or revises shall be transmitted to the Secretary, and shall thereupon be published by the Secretary as proposed mandatory health standards.

(d) The Secretary shall publish proposed mandatory health and safety standards in the Federal Register and shall afford interested persons a period of not less than thirty days after publication to submit written data or comments. In the case of mandatory safety standards, except as provided in subsection (e) of this section, the Secretary may, upon the expiration of such period and after consideration of all relevant matter presented, promulgate such standards with such modifications as he may deem appropriate. In the case of mandatory health standards, except as provided in subsection (e) of this section, the Secretary of Health, Education, and Welfare may, upon the expiration of such period and after consideration of all relevant matter presented to the Secretary and transmitted to the Secretary of Health, Education, and Welfare, direct the Secretary to promulgate such standards with such modifications as the Secretary of Health, Education, and Welfare may deem appropriate and the Secretary shall thereupon promulgate such standards.

(e) On or before the last day of any period fixed for the submission of written data or comments under subsection (d) of this section, any interested person may file with the Secretary written objections to a proposed standard, stating the grounds therefore and requesting a public hearing on such objections. As soon as practicable after the period for filing such objections has expired, the Secretary shall publish in the Federal Register a notice specifying the proposed standards to which objections have been filed and a hearing requested.

(f) Promptly after any such notice is published in the Federal Register by the Secretary under subsection (e) of this section, the Secretary, in the case of mandatory safety standards, or the Secretary of Health, Education, and Welfare, in the case of mandatory health standards, shall issue notice of, and hold a public hearing for the purpose of receiving relevant evidence. Within sixty days after completion of the hearings, the Secretary who held the hearing shall make findings of fact which shall be public. In the case of mandatory safety standards, the Secretary may promulgate such standards with such modifications as he deems appropriate. In the case of mandatory health standards, the Secretary of Health, Education, and Welfare may direct the Secretary to promulgate the mandatory health standards with such modifications as the Secretary of Health, Education, and Welfare deems appropriate and the Secretary shall thereupon promulgate the mandatory health standards. In the event the Secretary or the Secretary of Health, Education, and Welfare determines that a proposed mandatory standard should not be promulgated or should be modified, he shall within a reasonable time publish his reasons for his determination.

(g) Any mandatory standard promulgated under this section shall be effective upon publication in the Federal Register unless the Secretary specifies a later date.

(h) Proposed mandatory safety standards for surface coal mines shall be developed and published by the Secretary not later than twelve months after the enactment of this Act.

ADVISORY COMMITTEES

SEC. 102. (a) The Secretary may appoint one or more advisory committees to advise him in carrying out the provisions of this Act. The Secretary shall designate the chairman of each such committee.

(b) Advisory committee members, other than employees of Federal, State, or local governments, shall be, for each day (including travel time) during which they are performing committee business, entitled to receive compensation at rates fixed by the Secretary but not in excess of the maximum rate of pay for grade GS–18 as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

INSPECTIONS AND INVESTIGATIONS

SEC. 103. (a) Authorized representatives of the Secretary shall make frequent inspections and investigations in coal mines each year for the purpose of (1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in such mines, (2) gathering information with respect to health and safety standards, (3) determining whether an imminent danger exists in a coal mine, and (4) determining whether or not there is compliance with the mandatory health and safety standards or with any notice or order issued under this title. In carrying out the requirements of clauses (3) and (4) of this subsection, no advance notice of an inspection shall be provided the operator of a mine. In carrying out the requirements of clauses (3) and (4) of this subsection in each underground coal mine, such representatives shall make inspections of the entire mine at least four times a year.

(b) (1) For the purpose of making any inspection or investigation under this Act, the Secretary or any authorized representative of the Secretary shall have a right of entry to, upon, or through any coal mine.

(2) The provisions of this Act relating to inspections, investigations, and records shall be available to the Secretary of Health, Education, and Welfare to enable him to carry out his functions and responsibilities under this Act.

(c) For the purpose of carrying out his responsibilities under this Act, including the enforcement thereof, the Secretary may by agreement utilize with or without reimbursement the services, personnel, and facilities of any Federal agency.

(d) For the purpose of making any investigation of any accident or other occurrence relating to health or safety in a coal mine, the Secretary may, after notice, hold public hearings, and may sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) In the event of any accident occurring in a coal mine, the operator shall notify the Secretary thereof and shall take appropriate measures to prevent, to the greatest extent possible, the destruction of any evidence which would assist in investigating the cause or causes thereof. In the event of any accident occurring in a coal mine where rescue and recovery work is necessary, the Secretary or an authorized representative of the Secretary shall take whatever action he deems appropriate to protect the life of any person, and he may, if he deems it appropriate, supervise and direct the rescue and recovery activity in such mine.

(f) In the event of any accident occurring in a coal mine, an authorized representative of the Secretary, when present, may issue such orders as he deems appropriate to insure the safety of any person in the coal mine, and the operator of such mine shall obtain the approval of such representative, in consultation with appropriate State representative, in consultation with appropriate State representatives, when feasible, of any plan to recover any person in the mine or to recover the mine or to return affected areas of the mine to normal.

(g) If a miner or an authorized representative, if any, of the miners believes that a violation of a mandatory health or safety standard exists, or an imminent danger exists, in a mine, he may notify the Secretary or his authorized representative of such violation or danger. Upon receipt of such notification the Secretary or his authorized representative may make a special investigation to determine if such violation or danger exists.

(h) At the commencement of any inspection of a coal mine by an authorized representative of the Secretary, the authorized representative, if any, of the miners at the mine at the time of such inspection shall be given an opportunity to accompany the authorized representative of the Secretary on such inspection.

FINDINGS, NOTICES, AND ORDERS

SEC. 104. (a) If, upon any inspection of a coal mine, an authorized representative of the Secretary finds that an imminent danger exists, such representative shall determine the area throughout which such danger exists, such representative shall determine an order requiring the operator of the mine or his agent to cause immediately all persons, except those referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such imminent danger no longer exists.

(b) If, upon any inspection of a coal mine, an authorized representative of the Secretary

finds that there has been a violation of any mandatory health or safety standard but the violation has not created an imminent danger, he shall issue a notice fixing a reasonable time for the abatement of the violation. If, upon the expiration of the period of time as originally fixed or subsequently extended, an authorized representative of the Secretary finds that the violation has not been totally abated, and if he also finds that the period of time should not be further extended, he shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except those referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that the violation has been abated.

(c) (1) If, upon the inspection of a coal mine, an authorized representative of the Secretary finds that any mandatory health or safety standard is being violated, and if he also finds that, while the conditions created by such violation do not cause imminent danger, such violation is of such nature as could significantly and substantially contribute to the cause or effect of a mine accident, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with such mandatory health and safety standards, he shall include such finding in the notice given to the operator under subsection (b) of this section. Within ninety days of the time such notice was given to such operator, the Secretary shall cause such mine to be reinspected to determine if any similar such violation exists in such mine. Such reinspection shall be in addition to any special inspection required under subsection (b) of this section, or section 105. If, during any special inspection relating to such violation or during such reinspection, a representative of the Secretary finds such similar violation does exist, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with the provisions of the mandatory health or safety standards, he shall forthwith issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (d) of this section, to be withdrawn from, and to be debarred from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

(2) If a withdrawal order with respect to any area in a mine has been issued pursuant to paragraph (1) of this subsection, thereafter a withdrawal order shall promptly be issued by a duly authorized representative of the Secretary who finds upon any following inspection the existence in such mine of violations similar to those that resulted in the issuance of the withdrawal order under paragraph (1) of this subsection until such time as an inspection of such mine discloses no similar violations. Following an inspection of such mine which discloses no similar violation, the provisions of paragraph (1) of this subsection shall again be applicable to that mine.

(d) The following persons shall not be required to be withdrawn from, or prohibited from entering, any area of the coal mine subject to an order issued under this section:

(1) any person whose presence in such area is necessary, in the judgment of the operator, to eliminate the condition described in the order;

(2) any public official whose official duties require him to enter such area;

(3) any representative of the employees of such mine who is, in the judgment of the operator, qualified to make coal mine examinations or who is accompanied by such a person and whose presence in such area is necessary for the investigation of the conditions described in the order; and

(4) any consultant to any of the foregoing.

(e) Notices and orders issued pursuant to this section shall contain a detailed description of the conditions or practices which cause and constitute an imminent danger or a violation of any mandatory health or safety standard and, where appropriate, a description of the area of the coal mine from which persons must be withdrawn and prohibited from entering.

(f) Each notice or order issued under this section shall be given promptly to the operator of the coal mine or his agent by an authorized representative of the Secretary issuing such notice or order, and all such notices and orders shall be in writing and shall be signed by such representative.

(g) A notice or order issued pursuant to this section may be modified or terminated by an authorized representative of the Secretary.

(h) (1) If, upon any inspection of a coal mine, an authorized representative of the Secretary finds (A) that conditions exist therein which have not yet resulted in an imminent danger, (B) that such conditions cannot be effectively abated through the use of existing technology, and (C) that reasonable assurance cannot be provided that the continuance of mining operations under such conditions will not result in an imminent danger, he shall determine the area throughout which such conditions exist, and thereupon issue a notice to the operator of the mine or his agent of such conditions, and shall file a copy thereof, incorporating his findings therein, with the Secretary and with the representative of the miners of such mine, if any. Upon receipt of such copy, the Secretary shall cause such further investigation to be made as he deems appropriate, including an opportunity for the operator or a representative of the miners, if any, to present information relating to such notice.

(2) Upon the conclusion of such investigation and an opportunity for a hearing upon request by any interested party, the Secretary shall make findings of fact, and shall require that either the notice issued under this subsection be canceled, or that an order be issued by such authorized representative of the Secretary requiring the operator to cause all persons in the area affected, except those persons referred to in subsection (d) of this section, to be withdrawn from, and be prohibited from entering, such area until the Secretary, after a hearing affording all interested persons an opportunity to present their views, determines that such conditions have been abated.

(i) If, based upon samples taken and analyzed and recorded pursuant to section 202(a) of this Act, the applicable health standard established under section 202(b) of this Act is exceeded and thereby violated, the Secretary or his authorized representative shall find a reasonable period of time within which to take corrective action to reduce the average concentration of respirable dust to the miners in the area of the mine in which such standard was exceeded, and shall issue a notice fixing a reasonable time for the abatement of the violation. During such time, the operator of such mine shall cause samples described in section 202(a) of this Act to be taken of the affected area during each production shift. If, upon the expiration of the period of time as originally fixed or subsequently extended, the Secretary or his authorized representative finds, based upon such samples or upon an inspection, that the violation has not been totally abated, he shall issue a new notice of violation if he finds that such period of time should be further extended. If he finds that such period of time should not be further extended, he shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except those referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until the Secretary or his authorized representative determines through such test procedures conducted in such area as he may require, including production and sampling, that the violation has been abated.

REVIEW BY THE SECRETARY

SEC. 105. (a) (1) An operator notified of an order issued pursuant to section 104 of this title, or any representative of miners in any mine affected by such order or any modification or termination of such order pursuant to section 104(g), may apply to the Secretary for review of the order within thirty days of receipt thereof or within thirty days of its modification or termination. The operator shall send a copy of such application to the representative, if any, of persons working in the affected mine. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a hearing, at the request of the applicant or a representative of persons working in such mine, to enable the applicant and the representatives of persons working in such mine to present information relating to the issuance and continuance of such order.

(2) The operator and the representative of the miners shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(b) Upon receiving the report of such investigation, the Secretary shall make findings of fact, and (1), in the case of an order issued under subsection (a) of section 104 of this title, he shall find whether or not the imminent danger as set out in the order existed at the time of issuance of the order and whether or not the imminent danger existed at the time of the investigation, and (2), in the case of an order issued under subsection (b), (c), or (i) of section 104 of this title, he shall find whether or not there was a violation of any mandatory health or safety standard as described in the order and whether or not such violation had been abated at the time of such investigation, and upon making such findings he shall issue a written decision vacating, affirming, modifying, or terminating the order complained of and incorporate his findings therein.

(c) In view of the urgent need for prompt decision of matters submitted to the Secretary under this section, all actions which the Secretary takes under this section shall be taken as promptly as practicable, consistent with the adequate consideration of the issues involved.

(d) Pending completion of the investigation required by this section, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any order issued under section 104 of this title, together with a detailed statement giving reasons for granting such relief. The Secretary may issue a decision granting such relief, under such conditions as he may prescribe, only after a hearing in which all parties are given an opportunity to be heard.

JUDICIAL REVIEW

SEC. 106. (a) Any decision issued by the Panel under section 5 or the Secretary under section 105 of this Act shall be subject to judicial review by the United States court of appeals for the circuit in which the effected mine is located, upon the filing in such court within thirty days from the date of such decision of a petition by the oper-

ator or a representative of the miners aggrieved by the decision praying that the decision be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the other party and to the Secretary or the Panel, as appropriate, and thereupon the Secretary or the Panel, as appropriate, shall certify and file in such court the record upon which the decision complained of was issued, as provided in section 2112, title 28, United States Code.

(b) The Court shall hear such petition on the record made before the Secretary of the Panel, as appropriate. The findings of the Secretary or the Panel, as appropriate, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any such decisions or may remand the proceedings to the Secretary of the Panel, as appropriate, for such further action as it may direct.

(c) Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, the court may, after due notice to, and hearing of, the parties to the appeal from a decision of the Secretary or the Panel, as appropriate, except a decision from an order issued under section 104(a) of this title, issue all necessary and appropriate process and grant such other relief as may be appropriate pending final determination of the appeal.

(d) The judgment of the court shall be subject only to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(e) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the Secretary's or Panel's decision.

POSTING OF NOTICES AND ORDERS

SEC. 107. (a) At each coal mine there shall be maintained an office with a conspicuous sign designating it as the office of the mine and a bulletin board at such office or at some conspicuous place near an entrance of the mine, in such manner that notices required by law or regulation to be posted on the mine bulletin board may be posted thereon, be easily visible to all persons desiring to read them, and be protected against damage by weather and against unauthorized removal. A copy of any notice or order required by this title to be given to an operator shall be delivered to the office of the affected mine, and a copy shall be immediately posted on the bulletin board of such mine by the operator or his agent.

(b) The Secretary shall cause a copy of any notice or order required by this title to be given to an operator to be mailed immediately to a duly designated representative of persons working in the affected mine, and to the public official or agency of the State charged with administering State laws, if any relating to health or safety in such mine. Such notice or order shall be available for public inspection.

(c) In order to insure prompt compliance with any notice or order issued under section 104 of this title, the authorized representative of the Secretary may deliver such notice or order to an agent of the operator and such agent shall immediately take appropriate measures to insure compliance with such notice or order.

(d) Each operator of a coal mine shall file with the Secretary the name and address of such mine and the name and address of the person who controls or operates the mine. Any revisions in such names or addresses shall be promptly filed with the Secretary. Each operator of a coal mine shall designate a responsible official at such mine as the principal officer in charge of health and safety at such mine and such official shall receive a copy of any notice, order, or decision issued under this Act affecting such mine. In any case, where the coal mine is subject to the control of any person not directly involved in the daily operations of the coal mine, there shall be filed with the Secretary the name and address of such person and the name and address of a principal official of such person who shall have overall responsibility for the conduct of an effective health and safety program at any coal mine subject to the control of such person and such official shall receive a copy of any notice, order, or decision issued affecting any such mine. The mere designation of a health or safety official under this subsection shall not be construed as making such official subject to any penalty under this Act.

INJUNCTIONS

SEC. 108. The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, in the district court of the United States for the district in which a coal mine is located or in which the operator of such mine has his principal office, whenever such operator or his agent (a) violates or fails or refuses to comply with any order issued under section 104 of this title or decision issued under this title, or (b) interferes with, hinders, or relays the Secretary or his authorized representative in carrying out the provisions of this Act, or (c) refuses to admit such representative to the mine, or (d) refuses to permit the inspection of the mine, or an accident, injury, or occupational disease occurring in, or connected with, such mine, or (e) refuses to furnish any information or report requested by the Secretary, or (f) refuses to permit access to, and copying of, records. Each court shall have jurisdiction to provide such relief as may be appropriate: *Provided,* That no temporary restraining order shall be issued without notice unless the petition therefor alleges that substantial and irreparable injury to the miners in such mine will be unavoidable and such temporary restraining order shall be effective for no longer than seven days and will become void at the expiration of such period: *Provided further,* That any order issued under this section to enforce an order issued under section 104, unless set aside or modified prior thereto by the district court granting such injunctive relief, shall not be in effect after the completion or final termination of all proceedings for review of such order as provided in this title if such is determined on such review that such order was invalid.

PENALTIES

SEC. 109. (a) The operator of a coal mine in which a violation occurs of a mandatory health or safety standard or who violates any provision of this Act shall by order be assessed a civil penalty by the Secretary which penalty shall not be more than $10,000 for each such violation. Each occurrence of a violation of a mandatory health or safety standard may constitute a separate offense. In determining the amount of the penalty, the Secretary shall consider the operator's history of previous violations, the appropriateness of such penalty to the size of the business of the operator charged, the effect on the operator's ability to continue in business, the gravity of the violation, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation. No penalty shall be assessed under this subsection pending the final termination, expiration, or completion of all proceedings, administrative or judicial, for review of an order or decision under this title.

(b) Upon written request made by an operator within thirty days after receipt of an order assessing a penalty under this section, the Secretary shall afford such operator an opportunity for a hearing and, in accordance with the request, determine by decision whether or not a violation did occur or whether the amount of the penalty is warranted or should be compromised.

(c) Upon any failure of an operator to pay a penalty assessed under this section, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found or resides or transacts business to collect the penalty, and such court shall have jurisdiction to hear and decide any such action.

(d) Whoever knowingly violates or fails or refuses to comply with any order issued under section 104(a) of this title or any final decision on any other order issued under this title shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both, except that if the conviction is for a violation committed after the first conviction of such person, punishment shall be by a fine of not more than $20,000 or by imprisonment for not more than one year, or by both.

(e) Whenever a corporate operator violates a mandatory health or safety standard of this Act, or violates any provision of this Act, any director, officer, or agent of such corporation who authorized, ordered, or carried out such violation shall be subject to the provisions of subsection (a). Whenever a corporate operator knowingly violates or fails or refuses to comply with any order issued under section 104(a) of this title or any final decision on any other order issued under this title, any director, officer, or agent of such corporation who authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the provisions of subsection (d).

(f) Whoever knowingly makes any false statements or representations in any application, records, reports, plans, or other documents filed or required to be maintained in accordance with this Act or any mandatory health or safety standard of this Act or any order issued under this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or both.

ENTITLEMENT OF MINERS

SEC. 110. (a) If a mine or portion of a mine is closed by an order issued under section 104, all miners working during the shift when such order was issued who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than the balance of such shift. If such order is not terminated prior to the next working shift, all miners on that shift who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than four hours of such shift. Whenever an operator violates or fails or refuses to comply with an order issued under section 104, all miners employed at the affected mine who would be withdrawn or prevented from entering such mine or portion thereof as a result of such order shall be entitled to full compensation by the operator at their regular rates of pay, in addition to pay received for work performed after such order was issued, for the period beginning when such order was issued and ending when such order is complied with, vacated, or terminated.

(b)(1) Compensation shall be paid under this subsection in respect of total disability of an individual from complicated pneumoconiosis which arose out of or in the course of his employment in a coal mine, and in respect of the death of any individual who, at the time of his death, was suffering from complicated pneumoconiosis which so arose. For purposes of this subsection, if an individual who is suffering or suffered from complicated pneumoconiosis was

employed for ten years or more in a coal mine there shall be a rebuttable presumption that his complicated pneumoconiosis arose out of or in the course of such employment, but this sentence shall not be deemed to affect the applicability of the first sentence of this paragraph in the case of claims under this subsection on account of death or total disability of an individual when such individual has not worked for as much as ten years in a coal mine. For purposes of this subsection, any individual who suffers from complicated pneumoconiosis shall be deemed to be totally disabled.

(2)(A) Subject to the provisions of subparagraph (B), compensation shall be paid under this subsection as follows:

(i) In the case of total disability, the disabled individual shall be paid compensation during the disability at a rate equal to 50 per centum of the minimum monthly payment to which a Federal employee in grade GS-2, who is totally disabled is entitled at the time of payment under the provisions of Federal law relating to Federal employees' compensation (section 8112, title 5, United States Code).

(ii) In the case of death, compensation shall be paid to the widow at the rate the deceased individual would receive such compensation if he were totally disabled.

(iii) In the case of an individual entitled to compensation under clause (i) or (ii) of this subparagraph who has one or more dependents, his compensation shall be increased at the rate of 50 per centum of the compensation to which he is so entitled under clause (i) or (ii) of this subparagraph if such individual has one dependent, 75 per centum if such individual has two dependents, and 100 per centum if such individual has three dependents.

(B) Notwithstanding subparagraph (A), compensation under this paragraph shall be reduced by an amount equal to any payment which the payee receives under the workmen's compensation, unemployment compensation, or disability insurance laws of his State, and the amount by which such payment would be reduced on account of excess earnings under section 203 (b) through (l) of the Social Security Act if the amount paid were a benefit payable under section 202 of such Act.

(3)(A) The Secretary of Labor shall enter into agreements with the Governors of the States under which the State will receive and adjudicate claims under this subsection from any resident of the State and under which compensation will be paid as provided by this subsection from grants made to pay compensation under this subsection. Such Governor shall implement the agreement in such manner as he shall determine will best effectuate the provisions of this subsection. The Governor shall make such reports to the Secretary of Labor, subject to such verification, as may be necessary to assure that Federal grants under this subsection are used for their intended purpose.

(B) The Secretary of Labor shall make grants under this subsection to States with which he has an agreement under subparagraph (A) in the amount necessary to enable them to pay the compensation required by this subsection.

(4) If the Secretary of Labor is unable to enter into an agreement under paragraph (3), or if the Governor of the State requests him to do so, he shall make payments of compensation directly to residents of such State as required by this subsection. The administrative provisions for carrying out the Federal employees' compensation programs which are contained in sections 8121, 8122 (b), and 8123 through 8135, title 5, United States Code, shall apply with respect to claims under this paragraph.

(5) No claim under this subsection shall be considered unless it is filed (1) within one year after the date an employed miner received the results of his first chest roentgenogram provided under section 203 of this Act, or, if he did not receive such a chest roentgenogram, the date he was first afforded an opportunity to do so under such section, or (2) in the case of any other claimant, within three years from the date of enactment of this Act, or, in the case of a claimant who is a widow, within one year after the death of her husband or within three years from the date of enactment of this Act, whichever is the later. Payment of compensation under this subsection shall commence with the date the claim is filed.

(6) No compensation shall be paid under this subsection to the residents of any State which, after the date of enactment of this Act, reduces the benefits payable to persons eligible to receive compensation under this subsection, under its State laws which are applicable to its general work force with regard to workmen's compensation, unemployment compensation, or disability insurance.

(7) For purposes of this subsection—

(A) The term "coal mine" includes only underground coal mines.

(B) The term "complicated pneumoconiosis" means an advanced stage of a chronic coal dust disease of the lung which (i) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one centimeter in diameter) and would be classified in category A, B, or C in the International Classification of Radiographs of the Pneumoconioses by the International Labor Organization, (ii) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, (iii) when diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in clause (i) or (ii) if diagnosis had been made in a manner described in clause (i) or (ii).

(C) The term "dependent" means a wife or child who is a dependent as that term is defined for purposes of section 8110, title 5, United States Code.

(D) The term "widow" means the wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of his desertion, who has not remarried.

REPORTS

SEC. 111. (a) All accidents, including unintentional roof falls (except in any abandoned panels or in areas which are inaccessible or unsafe for inspections), shall be investigated by the operator or his agent to determine the cause and the means of preventing a recurrence. Records of such accidents, roof falls, and investigations shall be kept and the information shall be made available to the Secretary or his authorized representative and the appropriate State agency. Such records shall be open for inspection by interested persons. Such records shall include man-hours worked and shall be reported for periods determined by the Secretary, but at least annually.

(b) Every operator of a coal mine and his agent shall (1) establish and maintain, in addition to such records as are specifically required by this Act, such records, and (2) make such reports and provide such information, as the Secretary may reasonably require from time to time to enable him to perform his functions under this Act. The Secretary is authorized to compile, analyze, and publish, either in summary or detailed form, such reports or information so obtained. Except to the extent otherwise specifically provided by this Act, all records information, reports, findings, notices, orders, or decisions required or issued pursuant to or under this Act may be published from time to time and released to any interested person, and shall be made available for public inspection.

TITLE II—INTERIM MANDATORY HEALTH STANDARDS

COVERAGE

SEC. 201. The provisions of sections 202 through 205 of this title shall be interim mandatory health standards applicable to all underground coal mines until superseded in whole or in part by mandatory health standards promulgated by the Secretary, and shall be enforced in the same manner and to the same extent as any mandatory health standard promulgated under the provisions of section 101 of title I of this Act. Any orders issued in the enforcement of the interim standards set forth in this title shall be subject to review as provided in title I of this Act.

DUST STANDARD AND RESPIRATORS

SEC. 202. (a) Each operator of a coal mine shall take accurate samples of the amount of respirable dust in the mine atmosphere to which the miners in the active workings of such mine are exposed. Such samples shall be taken by any device approved by the Secretary and the Secretary of Health, Education, and Welfare and in accordance with such methods, at such locations, at such intervals, and in such manner as the Secretaries shall prescribe in the Federal Register within sixty days from the date of enactment of this Act and from time to time thereafter. Such samples shall be transmitted to the Secretary at his expense in a manner established by him, and analyzed and recorded by him in a manner which will assure application of the provisions of section 104(i) when the standard established under subsection (b) of this section is exceeded. The results of such samples shall also be made available to the operator. Each operator shall certify to the Secretary at such intervals as the Secretary may require as to the condition of the mine atmosphere in the active workings of the mine, including, but not limited to, the average number of working hours worked during each shift, the quantity of air regularly reaching the working places, the method of mining, the amount and pressure of the water, if any, reaching the working faces, and the number, location, and type of sprays, if any, used.

(b)(1) Effective on the operative date of this title, each operator shall maintain the average concentration of respirable dust in the mine atmosphere to which each miner in the active workings of such mine is exposed at or below 4.5 milligrams per cubic meter of air (if measured with an MRE instrument over several shifts) or an equivalent amount of dust (if measured with any other instrument approved by the Secretary and the Secretary of Health, Education, and Welfare). In the case of an operator who requests an extension of time beyond the operative date of this title in which to reduce such average concentration of respirable dust to or below 4.5 milligrams per cubic meter of air (or its equivalent) and demonstrates to the satisfaction of the Panel that he is undertaking maximum efforts to so reduce such average concentration but is unable to do so because it is not technologically feasible for him to do so, the Panel may grant such operator no more than ninety days for such purpose.

(2) Effective six months after the operative date of this title, the limit on the level of dust concentration shall be 3.0 milligrams of respirable dust per cubic meter of air (if measured with an MRE instrument over several shifts) or an equivalent amount of dust (is measured with any other instrument approved by the Secretary and the Secretary of Health, Education, and Welfare). In the case of an operator who requests an extension of time beyond the effective date of this paragraph in which to reduce the average concentration of respirable dust to or below 3.0 milligrams per cubic meter of air (or its equivalent) and demonstrates to

the satisfaction of the Panel that he is undertaking maximum efforts to so reduce such average concentration but is unable to do so because it is not technologically feasible for him to do so, the Panel may grant such operator no more than six months for such purpose.

(3) Beginning six months after the operative date of this title, the Secretary of Health, Education, and Welfare shall reduce the limit on the level of dust concentration below 3.0 milligrams of respirable dust per cubic meter of air (if measured with an MRE instrument over several shifts) or an equivalent amount of dust (if measured with any other instrument approved by the Secretary and the Secretary of Health, Education, and Welfare) as he determines such reductions become technologically attainable.

(c) Respirators or other breathing devices approved by the Secretary and the Secretary of Health, Education, and Welfare shall be made available to all persons whenever exposed to concentrations of dust in excess of concentrations of dust permitted by subsection (b). Use of respirators shall not be substituted for environmental control measures. Each underground mine shall maintain a supply of approved respirators or other breathing devices adequate to deal with occurrences of concentrations of respirable dust in the mine atmosphere in excess of the limit prescribed in this section.

(d) As used in this title, the term "MRE instrument" means the gravimetric dust sampler with four channel horizontal elutriator developed by the Mining Research Establishment of the National Coal Board, London, England.

MEDICAL EXAMINATIONS

SEC. 203. (a) The operator of an underground coal mine shall cooperate with the Secretary of Health, Education, and Welfare in making available to each miner working in an underground coal mine an opportunity to have, at least once every five years, beginning six months after the operative date of this title, a chest roentgenogram to be provided by the Secretary of Health, Education, and Welfare with funds derived under section 401(c) of this Act. Each worker who begins work in a coal mine for the first time shall be given, as soon as possible after commencement of his employment, and again three years later if he is still engaged in coal mining, a chest roentgenogram; and in the event the second such chest roentgenogram shows evidence of the development of pneumoconiosis the worker shall be given, two years later if he is still engaged in coal mining, an additional chest roentgenogram. Such chest roentgenograms shall be given in accordance with specifications and to the extent prescribed by the Secretary of Health, Education, and Welfare and shall be supplemented by such other tests as the Secretary of Health, Education, and Welfare deems necessary. The films shall be read and classified in a manner to be prescribed by the Secretary of Health, Education, and Welfare and the results of each reading on each such person and of such tests, shall be submitted to the Secretary and to the Secretary of Health, Education, and Welfare, and at the request of the worker, to his physician. Such specfications, readings, classifications, and tests shall, to the greatest degree possible, be uniform for all underground coal mines and coal miners in such mines.

(b) Any miner, who, in the judgment of the Secretary of Health, Education, and Welfare based upon such reading, shows substantial evidence of the development of pneumoconiosis shall, at the option of the miner, be assigned by the operator, for such period or periods as may be necessary to prevent further development of such disease, to work either (1) in any active working place in a mine where the mine atmosphere contains concentrations of respirable dust of not more than 2.0 milligrams per cubic meter of air if measured with an MRE instrument or not more than an equivalent amount of dust if measured with any other instrument approved by the Secretary and the Secretary of Health, Education, and Welfare, or (2) in an area of the mine containing more than such 2.0 milligrams, or its equivalent, provided the miner wears respiratory equipment approved by the Secretary and the Secretary of Health, Education, and Welfare. Within one year after the enactment of this Act, any miner who shows evidence of the development of pneumoconiosis shall be assigned by the operator for such period or periods as may be necessary to prevent further development of such disease, to work, at the option of the miner, in any working section or other area of the mine, where the average concentration of respirable dust in the mine atmosphere to which the miner is exposed during each shift is at or below 1.0 milligrams of dust per cubic meter of air or to whatever lower level the Secretary of Health, Education, and Welfare determines is necessary to prevent any further development of such disease. Any miner so assigned shall receive compensation for such work not less than the regular rate of pay received by him immediately prior to his assignment.

DUST FROM DRILLING ROCK

SEC. 204. The dust resulting from drilling in rock shall be controlled by the use of permissible dust collectors or by water or water with a wetting agent, or by any other method or device approved by the Secretary which is at least as effective in controlling such dust. Respiratory equipment approved by the Secretary and the Secretary of Health, Education, and Welfare shall be provided persons exposed for short periods to inhalation hazards from gas, dusts, fumes, or mist. When the exposure is for prolonged periods, other measures to protect such persons or to reduce the hazard shall be taken.

DUST STANDARD WHEN QUARTZ IS PRESENT

SEC. 205. In coal mining operations where the respirable dust in the mine atmosphere of any active working place contains more than 5 per centum quartz, the Secretary of Health, Education, and Welfare shall prescribe an appropriate formula for determining the applicable dust standard under this title for such working place and the Secretary shall apply such formula in carrying out his duties under this title.

TITLE III—INTERIM MANDATORY SAFETY STANDARDS FOR UNDERGROUND COAL MINES

COVERAGE

SEC. 301. (a) The provisions of sections 302 through 317 of this title shall be interim mandatory safety standards applicable to all underground coal mines until superseded in whole or in part by mandatory safety standards promulgated by the Secretary under the provisions of section 101 of title I of this Act, and shall be enforced in the same manner and to the same extent as any mandatory safety standard promulgated under title I of this Act. Any orders issued in the enforcement of the interim standards set forth in this title shall be subject to review as provided in title I of this Act.

(b) The Secretary may, upon petition by the operator, waive or modify the application of any mandatory safety standard to a mine when he determines such application will result in a diminution of safety to workers in such mine, but any action taken by the Secretary under this subsection shall be consistent with the purposes of this Act and shall not reduce the protection afforded miners by it.

(c) Upon petition by the operator, the Secretary may modify the application of any mandatory safety standard to a mine. Such petition shall state that an alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded miners by such standard. Upon receipt of such petition the Secretary shall publish notice thereof and give notice to the representative, if any, of persons working in the affected mine and shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a hearing, at the request of such representative or other interested party, to enable the applicant and the representative of persons working in such mine or other interested party to present information relating to the modification of such standard. The Secretary shall make findings of fact and publish them in the Federal Register.

ROOF SUPPORT

SEC. 302. (a) Each operator shall undertake to carry out on a continuing basis a program to improve the roof control system of each mine and the means and measures to accomplish such system. The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof-control plan and revisions thereof suitable to the roof conditions and mining system of each mine and approved by the Secretary shall be adopted and set out in printed form within sixty days after the operative date of this title. The plan shall show the type of support and spacing approved by the Secretary. Such plan shall be reviewed periodically, at least every six months by the Secretary, taking into consideration any falls of roof or ribs or inadequacy of support of roof or ribs. No person shall proceed beyond the last permanent support unless adequate temporary support is provided or unless such temporary support is not required under the approved roof control plan. A copy of the plan shall be furnished the Secretary or his authorized representative and shall be available to the miners or their authorized representatives.

(b) The method of mining followed in any mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.

(c) The operator shall provide at or near the working face an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof boltholes are being drilled, roof bolts are being installed, and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Supports knocked out, except in recovery shall be replaced promptly.

(d) When permitted, installed roof bolts shall be tested in accordance with the approved roof control plan. Roof bolts shall not be recovered where complete extractions of pillars are attempted, where adjacent to clay veins, or at the locations of other irregularities, whether natural or otherwise, that induce abnormal hazards. Where roof bolt recovery is permitted, it shall be conducted only in accordance with methods prescribed in the approved roof control plan and shall be conducted by experienced miners and only where adequate temporary support is provided.

(e) Where miners are exposed to danger from falls of roof, face, and ribs the operator shall require that examinations and tests of the roof, face, and ribs be made before any work or machine is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.

VENTILATION

SEC. 303. (a) All coal mines shall be ventilated by mechanical ventilation equipment installed and operated in a manner approved by an authorized representative of the Secretary and such equipment shall be examined daily and a record shall be kept of such examination.

(b) All active underground workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harfmul quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable or harmful gases and smoke and fumes. The minimum quantity of air in any mine reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms shall be nine thousand cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line shall be nine thousand cubic feet a minute. The minimum quantity of air in any mine reaching each working face shall be three thousand cubic feet a minute and, in the case of a mechanized mine, there shall also be a minimum velocity of one hundred feet per minute passing to within five feet of the working face and over any miner operating electrical equipment at the working face. The Secretary or his authorized representative may require in any coal mine a greater quantity and velocity of air when he finds it necessary to protect the safety of miners. Within three years after the operative date of his title, the dust level in intake aircourses shall not exceed 0.25 milligram per cubic meter of air. In robbing areas of anthracite mines, where the air currents cannot be controlled and measurements of the air cannot be obtained, the air shall have perceptible movement.

(c)(1) Properly installed and adequately maintained line brattice or other approved devices shall be used from the last open crosscut of any entry or room of each working section to provide adequate ventilation to the working faces for the miners and to remove flammable, explosive, and noxious gases, dust, and explosive fumes, unless the Secretary or his authorized representative permits an exception to this requirement. When damaged by falls or otherwise, they shall be repaired promptly.

(2) The space between the line brattice or other approved device and the rib shall be large enough to permit the flow of a sufficient volume of air to keep the working face clear of flammable, explosive, and noxious gases, dust, and explosive fumes.

(3) Brattice cloth used underground shall be of flame-resistant material.

(d)(1) Within three hours immediately preceding the beginning of a coal-producing shift, and before any workmen in such shift enter the underground areas of the mine, certified persons designated by the operator of the mine shall examine a definite underground area of the mine. Each such examiner shall examine every underground working place in that area and shall make tests in each such working place for accumulations of explosive gases with means approved by the Secretary for detecting explosive gases and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in the underground working places; examine active roadways, travelways, and all belt conveyors on which men are carried, approaches to abandoned workings, and accessible falls in sections for hazards; examine by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume; and examine for such other hazards and violations of the mandatory health safety standards, as an authorized representative of the Secretary may from time to time require. Belt conveyors on which coal is carried shall be examined after each coal-producing shift has begun. Such mine examiner shall place his initials and the date at all places he examines. If such mine examiner finds a condition which constitutes a violation of a mandatory health or safety standard or any condition which is hazardous to persons who may enter or be in such area, he shall indicate such hazardous place by posting a "DANGER" sign conspicuously at all points which persons entering such hazardous place would be required to pass, and shall notify the operator of the mine. No person, other than an authorized representative of the Secretary or a State mine inspector or persons authorized by the mine operator to enter such place for the purpose of eliminating the hazardous condition therein, shall enter such place while such sign is so posted. Upon completing his examination such mine examiner shall report the results of his examination to a person, designated by the mine operator to receive such reports at a designated station on the surface of the mine, before other persons enter the underground areas of such mine to work in such coal-producing shift. Each such mine examiner shall also record the results of his examination with ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard.

(2) No person (other than certified persons designated under this subsection) shall enter any underground area, except during a coal-producing shift, unless an examination of such area as prescribed in this subsection has been made within eight hours immediately preceding his entrance into such area.

(e) At least once during each coal-producing shift, or more often if necessary for safety, each underground working section shall be examined for hazardous conditions by certified persons designated by the mine operator to do so. Such examination shall include tests with means approved by the Secretary for detecting explosive gases and with a permissible flame safety lamp or other means approved by the Secretary for detecting oxygen deficiency.

(f) Examination for hazardous conditions, including tests for explosive gases, and for compliance with the standards established by, or promulgated pursuant to, this title shall be made at least once each week, by a certified person designated by the operator of the mine, in the return of each split of air where it enters the main return on pillar falls, at seals, in the main return, at least one entry of each intake and return aircourse in its entirety, idle workings, and, insofar as safety considerations permit, abandoned workings. Such weekly examination need not be made during any week in which the mine is idle for the entire week; except that such examination shall be made before any other miner returns to the mine. The person making such examinations and tests shall place his initials and the date at the places examined, and if hazardous conditions are found, such conditions shall be reported promptly. Any hazardous conditions shall be corrected immediately. If a hazardous condition cannot be corrected immediately, the operator shall withdraw all persons from the area affected by the hazardous condition except those persons whose presence is required to correct the conditions. A record of these examinations, tests, and actions taken shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(g) At least once each week, a qualified person shall measure the volume of air entering the main intakes and leaving the main returns, the volume passing through the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms, the volume being delivered to the intake end of each pillar line, and the volume at the intake and return of each split of air. A record of such measurements shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(h)(1) At the start of each coal-producing shift, tests for explosive gases shall be made at the face of each working place immediately before electrically operated equipment is energized. Such tests shall be made by qualified persons. If 1.0 volume per centum or more of explosive gas is detected, electrical equipment shall not be energized, taken into, or operated in, such working place until such explosive gas content is less than 1.0 volume per centum of explosive gas. Examinations for explosive gases shall be made during such operations at intervals of not more than twenty minutes during each shift, unless more frequent examinations are required by an authorized representative of the Secretary. In conducting such tests, such person shall use means approved by the Secretary for detecting explosive gases.

(2) If the air at an underground working place, when tested at a point not less than twelve inches from the roof, face, or rib, contains 1.0 volume per centum or more of explosive gas, changes or adjustments shall be made at once in the ventilation in such mines so that such air shall contain less than 1.0 volume per centum of explosive gas. While such ventilation improvement is underway and until it has been achieved, power to face equipment located in such place shall be cut off, no other work shall be permitted in such place, and due precautions will be carried out under the direction of the agent of the operator so as not to endanger other active workings.

If such air, when tested as outlined above, contains 1.5 volume per centum or more of explosive gas, all persons shall be withdrawn from the portion of the mine endangered thereby, and all electric power shall be cut off from such portion of the mine, until the air in such working place shall contain less than 1.0 volume per centum of explosive gas.

(i) If, when tested, a split of air returning from active underground workings contains 1.0 volume per centum or more of explosive gas, changes or adjustments shall be made at once in the ventilation in the mine so that such returning air shall contain less than 1.0 volume per centum of explosive gas. Such tests shall be made at four-hour intervals during each shift by a qualified person designated by the operator of the mine. In making such tests, such person shall use means approved by the Secretary for detecting explosive gases.

(j) If a split of air returning from active underground workings contains 1.5 volume per centum or more of explosive gas, all persons shall be withdrawn from the portion of the mine endangered thereby, and all electric power shall be cut off from such portion of the mine, until the air in such split shall contain less than 1.0 volume per centum of explosive gas. In virgin territory, if the quan-

tity of air in a split ventilating the active workings in such territory equals or exceeds twice the minimum volume of air prescribed in subsection (b) of this section, if the air in the split returning from such workings does not pass over trolley or power feeder wires, and if a certified person designated by the mine operator is continually testing the explosive gas content of the air in such split during mining operations in such workings, it shall be necessary to withdraw all persons and cut off all electric power from the portion of the mine endangered by explosive gases only when the air returning from such workings contains 2.0 volume per centum or more of explosive gas.

(k) Air which has passed by an opening of any abandoned area shall not be used to ventilate any active working place in the mine if such air contains 0.25 volume per centum or more of explosive gas. Examinations of such air shall be made during the pre-shift examination required by subsection (d) of this section. In making such tests, a certified person designated by the operator of the mine shall use means approved by the Secretary for detecting explosive gases. For the purposes of this subsection, an area within a panel shall not be deemed to be abandoned until such panel is abandoned.

(l) Air that has passed through an abandoned panel or area which is inaccessible or unsafe for inspection shall not be used to ventilate any active working place in such mine. No air which has been used to ventilate an area from which the pillars have been removed shall be used to ventilate any active working place in such mine, except that such air, if it does not contain 0.25 volume per centum or more of explosive gases, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries.

(m) A methane monitor approved by the Secretary shall be installed and be kept operative and in operation on all electric face cutting equipment, continuous miners, longwall face equipment, and loading machines, and such other electric face equipment as an authorized representative of the Secretary may require. Such monitor shall be set to deenergize automatically any electric face equipment on which it is required when such monitor is not operating properly. The sensing device of any such monitor shall be installed as close to the working face as possible. An authorized representative of the Secretary may require any such monitor to be set to give a warning automatically when the concentration of explosive gas reaches 1.0 volume per centum and automatically to de-energize equipment on which it is installed when such concentration reaches 2.0 volume per centum.

(n) Idle and abandoned areas shall be inspected for explosive gases and for oxygen deficiency and other dangerous conditions by a certified person with means approved by the Secretary as soon as possible, but not more than three hour, before other employees are permitted to enter or work in such areas. However, persons, such as pumpmen, who are required regularly to enter such areas in the performance of their duties, and who are trained and qualified in the use of means approved by the Secretary for detecting explosive gases and in the use of a permissible flame safety lamp or other means for detecting oxygen deficiency are authorized to make such examinations for themselves, and each such person shall be properly equipped and shall make such examinations upon entering any such area.

(o) Immediately before an intentional roof fall is made, pillar workings shall be examined by a qualified person designated by the operator to ascertain whether explosive gas is present, such person shall use means approved by the Secretary for detecting explosive gases. If in such examination explosive gas is found in amounts of 1.0 volume per centum or more, such roof fall shall not be made until changes or adjustments are made in the ventilation so that the air shall contain less than 1.0 volume per centum of explosive gas.

(p) A ventilation system and explosive gas—and dust control plan and revisions thereof suitable to the conditions and the mining system of the mine and approved by the Secretary shall be adopted by the operator and set out in printed form within ninety days after the operative date of this title. The plan shall show the type and location of mechanical ventilation equipment installed and operated in the mine and such other information as the Secretary may require. Such plan shall be reviewed by the operator and the Secretary at least every six months.

(q) Each operator of a coal mine shall provide for the proper maintenance and care of the permissible flame safety lamp by a person trained in such maintenance and before each shift care shall be taken to insure that such lamp is in a permissible condition.

(r) Where areas are being pillared on the operative date of this title without bleeder entries, or without bleeder systems or an equivalent means, pillar recovery may be completed in the area to the extent approved by an authorized representative of the Secretary if the edges of pillar lines adjacent to active workings are ventilated with sufficient air to keep the air in open areas along the pillar lines below 1.0 volume per centum of explosive gas.

(s) Each mechanized mining section shall be ventilated with a separate split of intake air directed by overcasts, undercasts, or the equivalent, except an extension of time, not in excess of six months may be permitted by the Secretary, under such conditions as he may prescribe, whenever he determines that this subsection cannot be complied with on the operative date of this title.

(t) In all underground areas of a mine, immediately before firing each shot or group of multiple shots and after blasting is completed, examinations for explosive gases shall be made by a qualified person with means approved by the Secretary for detecting explosive gases. If explosive gas is found in amounts of 1.0 volume per centum or more, changes or adjustments shall be made at once in the ventilation so that the air shall contain less than 1.0 volume per centum of explosive gas. No shots shall be fired until the air contains less than 1.0 volume per centum of explosive gas.

(u) Each operator of a coal mine shall adopt a plan within sixty days after the operative date of this title which shall provide that when any mine fan stops, immediate action shall be taken by the operator or his agent (1) to withdraw all persons from the working sections, (2) to cut off the power in the mine in a timely manner, (3) to provide for restoration of power and resumption of work if ventilation is restored within a reasonable period as set forth in the plan after the working places and other workings where explosive gas is likely to accumulate are reexamined by a certified persons to determine if explosive gas in amounts of 1.0 volume per centum or more exists therein, and (4) to provide for withdrawal of all persons from the mine if ventilation cannot be restored within such reasonable time. The plan and revisions thereof approved by the Secretary shall be set out in printed form and a copy shall be furnished to the Secretary or his authorized representative.

(v) Changes in ventilation which materially affect the main air current or any split thereof and which may affect the safety of persons in the coal mine shall be made only when the mine is idle. Only those persons engaged in making such changes shall be permitted in the mine during the change. Power shall be removed from the areas affected by the change before work starts to make the change and shall not be restored until the effect of the change has been ascertained and the affected areas determined to be safe by a certified person.

(w) The mine foreman shall read and countersign promptly the daily reports of the preshift examiner and assistant mine foremen, and he shall read and countersign promptly the weekly report covering the examinations for hazardous conditions. Where such reports disclose hazardous conditions, the mine foreman shall take prompt action to have such conditions corrected. The mine superintendent or assistant superintendent of the mine shall also read and countersign the daily and weekly reports of such persons.

(x) Each day, the mine foreman and each of his assistants shall enter plainly and sign with ink or indelible pencil in a book provided for that purpose a report of the condition of the mine or portion thereof under his supervision which report shall state clearly the location and nature of any hazardous condition observed by them or reported to them during the day and what action was taken to remedy such condition. Such book shall be kept in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard.

(y) Before a mine is reopened after having been abandoned, the Secretary shall be notified and an inspection made of the entire mine by an authorized representative of the Secretary before mining operations commence.

(z)(1) In any coal mine opened after the operative date of this title, the entries used as intake and return air-courses shall be separted from belt haulage entries, and each operator of such mine shall limit the velocity of the air coursed through belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of explosive gas, and such air shall not be used to ventilate active working places. Whenever an authorized representative of the Secretary finds, in the case of any coal mine opened on or prior to the operative date of this title which has been developed with more than two entries, that the conditions in the entries, other than belt haulage entries, are such as to adequately permit the coursing of intake or return air through such entries, (1) the belt haulage entries shall not be used to ventilate, unless such entries are necessary to ventilate active working places, and (2) when the belt haulage entries are not necessary to ventilate the active working faces, the operator of such mine shall limit the velocity of the air coursed through the belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entires, and to insure that the air therein shall contain less than 1.0 volume per centum of explosive gas.

(2) In any coal mine opened on or after the operative date of this title, or, in the case of a coal mine opened prior to such date, in any new working section of such mine, where trolley haulage systems are maintained and where trolley or trolley feeder wires are installed, an authorized representative of the Secretary shall require a sufficient number of entries or rooms as intake air courses in order to limit, as prescribed by the Secretary, the velocity of air currents on such haulageways for the purpose of minimizing the hazards associated with fires and dust explosions in such haulageways.

COMBUSTIBLE MATERIALS AND ROCK DUSTING

SEC. 304. (a) Coal dust, including float coal dust deposited on rock-dusted surfaces, loose coal, and other combustible materials, shall be cleaned up and not be permitted to accumulate in active underground workings or on electric equipment therein.

(b) Where underground mining operations create or raise excessive amounts of dust, water, or water with a wetting agent added to it, or other effective methods approved by an authorized representative of the Secretary, shall be used to abate such dust. In working places, particularly in distances less than forty feet from the face, water, with or without a wetting agent, or other effective methods approved by an authorized representative of the Secretary, shall be applied to coal dust on the ribs, roof, and floor to reduce dispersibility and to minimize the explosion hazard.

(c) All underground areas of a mine, except those areas in which the dust is too wet or too high in incombustible content to propagate an explosion, shall be rock dusted to within forty feet of all faces, unless such areas are inaccessible or unsafe to enter or unless an authorized representative of the Secretary permits an exception. All cross cuts that are less than forty feet from a working face shall also be rock dusted.

(d) Where rock dust is required to be applied, it shall be distributed upon the top, floor, and sides of all underground areas of a mine and maintained in such quantities that the incombustible contents of the combined coal dust, rock dust, and other dust shall be not less than 65 per centum, but the incombustible content in the return aircourses shall be no less than 80 per centum. Where explosive gas is present in any ventilating current, the per centum of incombustible content of such combined dusts shall be increased 1.0 and 0.4 per centum for each 0.1 per centum of explosive gas, where 65 and 80 per centum, respectively, of incombustibles are required.

(e) Subparagraphs (b) through (d) of this paragraph shall not apply to underground anthracite mines subject to this Act.

ELECTRICAL EQUIPMENT

SEC. 305. (a) One year after the operative date of this title—

(1) all electric face equipment used in a coal mine shall be permissible and shall be maintained in a permissible condition, except that the Secretary may permit, under such conditions as he may prescribe, nonpermissible or open-type electric face equipment in use in such mine on the date of enactment of this Act, to continue in use for such period (not in excess of one year) as he deems necessary to obtain such permissible equipment: *Provided, however,* That the provisions of this paragraph shall not apply to any mine which is not classified as gassy; and

(2) only permissible junction or distribution boxes shall be used for making multiple power connections inby the last open crosscut or in any other place where dangerous quantities of explosive gases may be present or may enter the air current.

(b)(1) Four years after the operative date of this title all electric face equipment used in mines exempted from the provisions of section 305(a)(1) of this Act shall be permissible and shall be maintained in a permissible condition, except that the Secretary may, upon petition, waive the requirements of this paragraph on an individual mine basis for a period not in excess of two years if, after investigation, he determines that such waiver is warranted. The Secretary may also, upon petition, waive the requirements of this paragraph on an individual mine basis if he determines that the permissible equipment for which the waiver is sought is not available to such mine.

(2) One year after the operative date of this title all replacement equipment acquired for use in any mine referred to in this subsection shall be permissible and shall be maintained in a permissible condition, and in the event of any major overhaul of any item of equipment in use one year from the operative date of this title such equipment shall be put in and thereafter maintained in a permissible condition, if, in the opinion of the Secretary, such equipment or necessary replacement parts are available.

(3) One year after the operative date of this title all hand held electric drills, blowers and exhaust fans, electric pumps, and other such low-horsepower electric face equipment as the Secretary may designate which are taken into or used inby the last open crosscut of any coal mine shall be permissible and thereafter maintained in a permissible condition.

(4) During the term of the use of any nonpermissible electric face equipment permitted under this subsection the Secretary may by regulation provide for use of methane monitoring devices, under such conditions as he shall prescribe, which will automatically deenergize electrical circuits providing power to electrical face equipment when the concentration of explosive gas in the atmosphere of the active workings permits, in the opinion of the Secretary, a condition in which an ignition or explosion may occur.

(c) A copy of any permit granted under this section shall be mailed immediately to a duly designated representative of the employees of the mine to which it pertains, and to the public official or agency of the State charged with administering State laws relating to coal mine health and safety in such mine. After the operative date of this title, whoever knowingly, in the case of a manufacturer, distributes, sells, offers for sale, introduces, or delivers in commerce any new electrical equipment used in coal mines, including, but not limited to, components and accessories of such equipment which fails to comply with the specifications or regulations of the Secretary, or, in the case of any other person, removes, alters, modifies, or renders inoperative any such equipment prior to its sale and delivery in commerce to the ultimate purchaser, shall, upon conviction, be subject to the sanctions in section 109(f) of this Act.

(d) Any coal mine which, prior to the operative date of this title, was classed gassy and was required to use permissible electric face equipment and to maintain such equipment in a permissible condition shall continue to use such equipment and to maintain such equipment in such condition.

(e) All power-connection points, except where permissible power connection units are used, outby the last open crosscut shall be in intake air.

(f) The location and the electrical rating of all stationary electric apparatus in connection with the mine electric system, including permanent cables, switchgear, rectifying substations, transformers, permanent pumps and trolley wires and trolley feeders, and settings of all direct-current circuit breakers protecting underground trolley circuits, shall be shown on a mine map. Any changes made in a location, electric rating, or setting shall be promptly shown on the map when the change is made. Such map shall be available to an authorized representative of the Secretary and to the miners in such mine.

(g) All power circuits and electric equipment shall be deenergized before work is done on such circuits and equipment, except when necessary for trouble shooting or testing. Energized trolley wires may be repaired only by a person qualified to perform such repairs and the operator of such mine shall require that such person wear approved and tested insulated shoes and wireman's gloves. No work shall be performed on medium and high-voltage distribution circuits or equipment except by or under the direct supervision of a qualified person. Disconnecting devices shall be locked out and suitably tagged by the persons who perform such work, except that, in cases where locking out is not possible, such devices shall be opened and suitably tagged by such persons. Locks or tags shall be removed only by the persons who installed them or, if such persons are unavailable, by persons authorized by an agent of the operator.

(h) All electrical equipment shall be frequently examined, tested, and properly maintained by a qualified person to assure safe operating conditions. When a potentially dangerous condition is found on electric equipment, such equipment shall be removed from service until such condition is corrected. A record of such examinations shall be kept and made available to an authorized representative of the Secretary and to the miners in such mine.

(i) All electric conductors shall be sufficient in size and have adequate current-carrying capacity and be of such construction that the rise in temperature resulting from normal operation will not damage the insulating materials.

(j) All electrical connections or splices in conductors shall be mechanically and electrically efficient and suitable connectors shall be used. All electrical connections or splices in insulated wire shall be reinsulated at least to the same degree of protection as the remainder of the wire.

(k) Cables shall enter metal frames of motors, splice boxes, and electric compartments only through proper fittings. When insulated wires other than cables pass through metal frames the holes shall be substantially bushed with insulated bushings.

(l) All power wires (except trailing cables on mobile equipment, specially designed cables conducting high-voltage power to underground rectifying equipment or transformers, or bare or insulated ground and return wires) shall be supported on well-installed insulators and shall not contact combustible material, roof, or ribs.

(m) Except trolley wires, trolley feeder and bare signal wires, power wires and cables installed shall be insulated adequately and fully protected.

(n) Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electric equipment and circuits against short circuit and overloads. Three-phase motors on all electric equipment shall be provided with overload protection that will deenergize all three phases in the event that any phase is overloaded.

(o) In all main power circuits disconnecting switchces shall be installed underground within five hundred feet of the bottoms of shafts and boreholes through which main power circuits enter the underground portion of the mine and at all other places where main power circuits enter the underground portion of the mine.

(p) All electric equipment shall be provided with switches or other controls that are safely designed, constructed and installed.

(q) Each ungrounded, exposed power conductor that leads underground shall be equipped with suitable lightning arresters of approved type within one hundred feet of the point where the circuit enters the mine. Lightning arresters shall be connected to a low-resistance grounding medium on the surface which shall be separated from neutral grounds by a distance of not less than twenty-five feet.

(r) No device for the purpose of lighting any underground coal mine of flame which has not been approved by the Secretary or his authorized representative shall be permitted in any underground coal mine, except under the provisions of section 311(d) of this title.

(s) An authorized representative of the Secretary may require in any coal mine that face equipment be provided with devices that will permit the equipment to be deenergized quickly in the event of an emergency.

TRAILING CABLES

SEC. 306. (a) Trailing cables used underground shall meet the requirements established by the Secretary for flame-resistant cables.

(b) Short-circuit protection for trailing cables shall be provided by an automatic circuit breaker or other no less-effective device approved by the Secretary of adequate current interrupting capacity in each ungrounded conductor. Disconnecting devices used to disconnect power from trailing cables shall be plainly marked and identified and such devices shall be equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected.

(c) When two or more trailing cables junction to the same distribution center, means shall be provided to assure against connecting a trailing cable to the wrong size circuit breaker.

(d) No more than two temporary splices shall be made in any trailing cable, except that if a third splice is needed during a shift it may be made during such shift, but such cable shall not be used after that shift until a permanent splice is made. In any case in which a temporary splice is made pursuant to this subsection such splice shall, within five working days thereafter, be replaced by a permanent splice. No temporary splice shall be made in a trailing cable within twenty-five feet of the machine, except cable reel equipment. Temporary splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Trailing cables or hand cables which have exposed wires or which have splices that heat or spark under load shall not be used. As used in this subsection, the term "splice" means the mechanical joining of one or more conductors that have been severed.

(e) When permanent splices in trailing cables are made, they shall be—

(1) mechanically strong with adequate electrical conductivity and flexibility;

(2) effectively insulated and sealed so as to exclude moisture; and

(3) vulcanized or otherwise treated with suitable materials to provide flame-resistant qualities and good bonding to the outer jacket.

(f) Trailing cables shall be clamped to machines in a manner to protect the cables from damage and to prevent strain on the electrical connections. Trailing cables shall be adequately protected to prevent damage by mobile machinery.

(g) Trailing cable and power cable connections to junction boxes shall not be made or broken under load.

GROUNDING

SEC. 307. (a) All metallic sheaths, armors, and conduits enclosing power conductors shall be electrically continuous throughout and shall be grounded. Metallic frames, casing, and other enclosures of electric equipment that can become "alive" through failure of insulation or by contact with energized parts shall be grounded effectively. Methods other than grounding which provide equivalent protection may be permitted by the Secretary.

(b) The frames of all offtrack direct current machines and the enclosures of related detached components shall be effectively grounded or otherwise maintained at safe voltages by methods approved by an authorized representative of the Secretary.

(c) The frames of all stationary high-voltage equipment receiving power from ungrounded delta systems shall be grounded by methods approved by an authorized representative of the Secretary.

(d) High-voltage lines, both on the surface and underground, shall be deenergized and grounded before work is performed on them, except that repairs may be permitted, in the case of energized surface high-voltage lines, if such repairs are made by a qualified person in accordance with procedures and safeguards, including, but not limited to, a requirement that the operator of such mine provide, test, and maintain protective devices in making such repairs, to be prescribed by the Secretary prior to the operative date of this title.

(e) When not in use, power circuits underground shall be deenergized on idle days and idle shifts, except that rectifiers and transformers may remain energized.

UNDERGROUND HIGH-VOLTAGE DISTRIBUTION

SEC. 308. (a) High-voltage circuits entering the underground portion of the mine shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against under-voltage, grounded phase, short circuit, and overcurrent.

(b) High-voltage circuits extending underground and supplying portable, mobile, or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded high-voltage circuits to be extended underground to feed stationary electrical equipment if such circuits are either steel armored or installed in grounded, rigid steel conduit throughout their entire length. Within one hundred feet of the point on the surface where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected, except that the Secretary or his authorized representative may permit such devices to be installed at a greater distance from such portion of the mine if he determines, based on existing physical conditions, that such installations will be more accessible at a greater distance and will not pose any hazard to the miners.

(c) The grounding resistor, where required, shall be of the proper ohmic value to limit the voltage drop in the grounding circuit external to the resistor to not more than 100 volts under fault conditions. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

(d) High-voltage, resistance grounded, wye-connected systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken.

(e)(1) Underground high-voltage cables used in resistance grounded, wye-connected systems shall be equipped with metallic shields around each power conductor, with one or more ground conductors having a total cross-sectional area of not less than one-half the power conductor, and with an insulated internal or external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit.

(2) All such cables shall be adequate for the intended current and voltage. Splices made in such cables shall provide continuity of all components.

(f) Couplers that are used with high-voltage power circuits shall be of the three-phase type with a full metallic shell, except that the Secretary may permit, under such guidelines as he may prescribe, couplers constructed of materials other than metal. Couplers shall be adequate for the voltage and current expected. All exposed metal on the metallic couplers shall be grounded to the ground conductor in the cable. The coupler shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

(g) Single-phase loads such as transformer primaries shall be connected phase to phase.

(h) All underground high-voltage transmission cables shall be installed only in regularly inspected aircourses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work or pass under them unless they are six and one-half feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with trolley and other low-voltage circuits.

(i) Disconnecting devices shall be installed at the beginning of branch lines in high-voltage circuits and equipped or designed in such a manner that it can be determined by visual observation that the circuit is deenergized when the switches are open.

(j) Circuit breakers and disconnecting switches underground shall be marked for identification.

(k) In the case of high-voltage cables used as trailing cables, temporary splices shall not be used and all permanent splices shall be made in accordance with section 306(e) of this title. Terminations and splices in all other high-voltage cables shall be made in accordance with the manufacturer's specifications.

(l) Frames, supporting structures, and enclosures of portable or mobile underground high-voltage equipment and all high-voltage equipment supplying power to such equipment shall be effectively grounded to the high voltage ground.

(m) Power centers and portable transformers shall be deenergized before they are moved from one location to another, except that, when equipment powered by sources other than such centers or transformers is not available, the Secretary may permit such centers and transformers to be moved while energized, if he determines that another equivalent or greater hazard may otherwise be created, and if they are moved under the supervision of a qualified person, and if such centers and transformers are examined prior to such movement by such person and found to be grounded by methods approved by an authorized representative of the Secretary and otherwise protected from hazards to the miner. A record shall be kept of such examinations. High-voltage cables, other than trailing cables, shall not be moved or handled at any time while energized, except that, when such centers and transformers are moved while energized as permitted under this subsection, energized high-voltage cables attached to such centers and transformers may be moved only by a qualified person and the operator of such mine shall require that such person wear approved and tested insulated wireman's gloves.

UNDERGROUND LOW- AND MEDIUM-VOLTAGE ALTERNATING CURRENT CIRCUITS

SEC. 309. (a) Low- and medium-voltage power circuits serving three-phase alternating current equipment shall be protected by

suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against undervoltage, grounded phase, short circuit, and overcurrent.

(b) Low- and medium-voltage three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded low- and medium-voltage circuits to be used underground to feed such stationary electrical equipment if such circuits are either steel armored or installed in grounded rigid steel conduit throughout their entire length. The grounding resistor, where required, shall be of the proper ohmic value to limit the ground fault current to 25 amperes. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

(c) Six months after the operative date of this title, low- and medium-voltage resistance grounded, wye-connected systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken. Cable couplers shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

(d) Disconnecting devices shall be installed in conjunction with the circuit breaker to provide visual evidence that the power is disconnected. Trailing cables for mobile equipment shall contain one or more ground conductors having a cross sectional area of not less than one half the power conductor and, six months after the operative date of this title, an insulated conductor for the ground continuity check circuit. Splices made in the cables shall provide continuity of all compounds.

(e) Single phase loads shall be connected phase to phase.

(f) Circuit breakers shall be marked for identification.

(g) Trailing cable for medium voltage circuits shall include grounding conductors, a ground check conductor, and ground metallic shields around each power conductor or a grounded metallic shield over the assembly; except that on machines, employing cable reels, cables without shields may be used if the insulation is rated 2,000 volts or more.

TROLLEY AND TROLLEY FEEDER WIRES

SEC. 310. (a) Trolley wires and trolley feeder wires shall be provided with cutout switches at intervals of not more than 2,000 feet and near the beginning of all branch lines.

(b) Trolley wires and trolley feeder wires shall be provided with overcurrent protection.

(c) Trolley and trolley feeder wires, high-voltage cables and transformers shall not be located inby the last open crosscut and shall be kept at least 150 feet from pillar workings.

(d) Trolley wires, trolley feeder wires, and bare signal wires shall be insulated adequately where they pass through doors and stoppings, and where they cross other power wires and cables. Trolley wires and trolley feeder wires shall be guarded adequately (1) at all points where men are required to work or pass regularly under the wires; (2) on both sides of all doors and stoppings, and (3) at man-trip stations. The Secretary or his authorized representatives shall specify other conditions where trolley wires and trolley feeder wires shall be adequately protected to prevent contact by any person, or shall require the use of improved methods to prevent such contact. Temporary guards shall be provided where trackmen and other persons work in proximity to trolley wires and trolley feeder wires.

FIRE PROTECTION

SEC. 311. (a) Each coal mine shall be provided with suitable firefighting equipment adapted for the size and conditions of the mine. The Secretary shall establish minimum requirements for the type, quality, and quantity of such equipment, and the interpretations of the Secretary relating to such equipment in effect on the operative date of this title shall continue in effect until modified or superseded by the Secretary. After every blasting operation performed on a shift, an examination shall be made to determine whether fires have been started.

(b) Underground storage places for lubricating oil and grease shall be of fireproof construction. Except for specially prepared materials approved by the Secretary, lubricating oil and grease kept in face areas or other underground working places in a mine shall be in portable, fire proof, closed metal containers.

(c) Underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate structures or areas enclosing electrical installations shall be coursed directly into the return. All other underground structures installed in a mine shall be of fireproof construction.

(d) All welding, cutting, or soldering with arc or flame in all underground areas of a mine shall, whenever practicable, be conducted in fireproof enclosures. Welding, cutting, or soldering with arc or flame in other than a fireproof enclosure shall be done under the supervision of a qualified person who shall make a diligent search for fire during and after such operations and shall immediately before and during such operations, continuously test for explosive gas with means approved by the Secretary for detecting explosive gas. Welding, cutting, or soldering shall not be conducted in air that contains 1.0 volume per centum or more of explosive gas. Rock dust or suitable fire extinguishers shall be immediately available during such welding, cutting, or soldering.

(e) Within one year after the operative date of this title, fire suppression devices meeting specifications prescribed by the Secretary shall be installed on unattended underground equipment and suitable fire-resistant hydraulic fluids approved by the Secretary shall be used in the hydraulic systems of such equipment. Such fluids shall be used in the hydraulic systems of other underground equipment unless fire suppression devices meeting specifications prescribed by the Secretary are installed on such equipment.

(f) Deluge-type water sprays or foam generators, automatically actuated by rise in temperature, or other effective means of controlling fire shall be installed at main and secondary belt conveyor drives. Such sprays or foam generators shall be supplied with a sufficient quantity of water to control fires.

(g) Underground belt conveyors shall be equipped with slippage and sequence switches. The Secretary shall, within sixty days after the operative date of this title, require that devices be installed on all such belts which will give a warning automatically when a fire occurs on or near such belt. The Secretary shall prescribe a schedule for installing fire suppression devices on belt haulageways.

(h) On or after the operative date of this title, all conveyor belts acquired for use underground shall meet the requirements established by the Secretary for flame-resistant conveyor belts.

MAPS

SEC. 312. (a) The operator of an active underground coal mine shall have, in a surface location chosen to minimize the danger of destruction by fire or other hazard, an accurate and up-to-date map of such mine drawn on such scale as the Secretary may require. Such map shall show the active workings, all worked out and abandoned areas, excluding those areas which have been worked out or abandoned before the effective date of this paragraph which are inaccessible or cannot be entered safely and on which no information is available, entries and aircourses with the direction of airflow indicated by arrows, elevations, dip of the coalbed, escapeways, adjacent mine workings within one thousand feet, mines above or below, water pools above, and oil and gas wells, either producing or abandoned, located within five hundred feet of such mine, and such other information as the Secretary may require. Such map shall be made or certified by a registered engineer or a registered surveyor of the State in which the mine is located. As the Secretary may by regulation require, such map shall be kept up to date by temporary notations, and such map shall be revised and supplemented at intervals on the basis of a survey made or certified by such engineer or surveyor.

(b) The coal mine map and any revision and supplement thereof shall be available for inspection by the Secretary or his authorized representative, by coal mine inspectors of the State in which the mine is located, and by persons working in the mine and their authorized representatives and by operators of adjacent coal mines. The operator shall furnish to the Secretary or his authorized representative, or to the Secretary of Housing and Urban Development, upon request, one or more copies of such map and any revision and supplement thereof.

(c) Whenever an operator permanently closes such mine, or temporarily closes such mine for a period of more than ninety days, he shall promptly notify the Secretary of such closure. Within sixty days of the permanent closure of the mine, or, when the mine is temporarily closed, upon expiration of a period of ninety days from the date of closure, the operator shall file with the Secretary a copy of the mine map revised and supplemented to the date of the closure. Such copy of the mine map shall be certified as true and correct by a registered surveyor or registered engineer of the State in which the mine is located and shall be available for public inspection.

BLASTING AND EXPLOSIVES

SEC. 313. (a) Black blasting powder shall not be stored or used underground. Mudcaps (adobes) or other unconfined shots shall not be fired underground.

(b) Explosives and detonators shall be kept in separate containers until immediately before use at the working faces. In underground anthracite mines, (1) mudcaps or other open, unconfined shake shots may be fired, if restricted to battery starting when explosive gas or a fire hazard is not present, and if it is otherwise impracticable to start the battery; (2) open, unconfined shake shots in pitching veins may be fired, when no explosive gas or a fire hazard is present, if the taking down of loose hanging coal by other means is too hazardous; and (3) tests for explosive gas shall be made immediately before such shots are fired and if explosive gas is present when tested in 1.0 volume per

centum, such shot shall not be made until the explosive gas content is reduced below 1.0 per centum.

(c) Except as provided in this subsection, in all underground areas of a mine only permissible explosives, electric detonators of proper strength, and permissible blasting devices shall be used and all explosives and blasting devices shall be used in a permissible manner. Permissible explosives shall be fired only with permissible shot firing units. Only incombustible materials shall be used for stemming bore-holes. The Secretary may, under such safeguards as he may prescribe, permit the firing of more than twenty shots and allow the use of nonpermissible explosives in sinking shafts and slopes from the surface in rock. This section shall not prohibit the use of compressed air blasting.

(d) Explosives or detonators carried anywhere underground by any person shall be in containers constructed of nonconductive material, maintained in good condition, and kept closed.

(e) Explosives or detonators shall be transported in special closed containers (1) in cars moved by means of a locomotive or rope, (2) on belts, (3) in shuttle cars, or (4) in equipment designed especially to transport such explosives or detonators.

(f) When supplies of explosives and detonators for use in one or more working sections are stored underground, they shall be kept in section boxes or magazines of substantial construction with no metal exposed on the inside, located at least twenty-five feet from roadways and power wires, and in a dry, well rock-dusted location protected from falls of roof, except in pitching beds, where it is not possible to comply with the location requirement, such boxes shall be placed in niches cut into the solid coal or rock.

(g) Explosives and detonators stored in the working places shall be kept in separate closed containers, which shall be located out of the line of blast and not less than fifty feet from the working face and fifteen feet from any pipeline, powerline, rail, or conveyor, except that, if kept in niches in the rib, the distance from any pipeline, powerline, rail, or conveyor shall be at least five feet. Such explosives and detonators, when stored, shall be separated by a distance of at least five feet.

HOISTING AND MANTRIPS

SEC. 314 (a) Every hoist used to transport persons at an underground coal mine shall be equipped with overspeed, overwind, and automatic stop controls. Every hoist used to transport persons shall be equipped with brakes capable of stopping the fully loaded platform, cage, or other device used for transporting persons, and with hoisting cable adequately strong to sustain the fully loaded platform, cage, or other device for transporting persons, and have a proper margin of safety. Cages, platforms, or other devices which are used to transport persons in vertical shafts shall be equipped with safety catches that act quickly and effectively in an emergency, and the safety catches shall be tested at least once every two months. Hoisting equipment, including automatic elevators, that is used to transport persons shall be examined daily. Where persons are regularly transported into or out of a coal mine by hoists, a qualified hoisting engineer shall be on duty while any person is underground, except that no such engineer shall be required for automatically operated cages, platforms, or elevators.

(b) Safeguards adequate, in the judgment of an authorized representative of the Secretary, to minimize hazards with respect to transportation of men and materials shall be provided.

(c) Hoists shall have rated capacities consistent with the loads handled and the recommended safety factors of the ropes used. An accurate and reliable indicator of the position of the cage, platform, skip, bucket, or cars shall be provided.

(d) There shall be at least two effective methods approved by the Secretary of signaling between each of the shaft stations and the hoist room, one of which shall be a telephone or speaking tube.

(e) In order to be capable of stopping with the proper margin of safety each locomotive and haulage car used in an underground coal mine shall be equipped with automatic brakes, or shall be subject to speed reductions or other safeguards approved by the Secretary.

EMERGENCY SHELTERS

SEC. 315. The Secretary or an authorized representative of the Secretary may require in any coal mine that rescue chambers, properly sealed and ventilated, be erected at suitable locations in the mine to which men could go in case of an emergency for protection against hazards. Such chambers shall be properly equipped with first aid materials, and adequate supply of air and self-contained breathing equipment, an independent communication system to the surface, and proper accommodations for the men while awaiting rescue, and such other equipment as the Secretary may require. A plan for the erection, maintenance, and revisions of such chambers shall be submitted by the operator to the Secretary for his approval.

COMMUNICATIONS

SEC. 316. A two-way communication system, approved by the Secretary, shall be provided between the surface and each landing of main shafts and slopes and between the surface and each working section that is more than two hundred feet from a portal.

MISCELLANEOUS

SEC. 317. (a) (1) While pillars are being extracted in any area of a mine, such area shall be ventilated in a manner approved by the Secretary or his authorized representative. Within six months after the operative date of this title, all areas which are or have been abandoned in all mines, as determined by the Secretary or his authorized representative, shall be ventilated by bleeder entries or by bleeder systems or equivalent means or sealed, as determined by the Secretary or his authorized representative, except that the Secretary may permit, on a mine-by-mine basis, an extension of time of not to exceed six months to complete such work. Ventilation of such areas shall be approved only where the Secretary or his authorized representative is satisfied that such ventilation can be maintained so as to, continuously, dilute, render harmless, and carry away explosive gases within such areas and to protect the active workings of the mine from the hazards of such gases. When sealing is required, such seals shall be made in an approved manner so as to isolate with explosion-proof bulkheads such areas from the active workings of the mine. In the case of mines opened on or after the operative date of this title, or in the case of working sections opened on or after such date in mines opened prior to such date, the mining system shall be designed, in accordance with a plan and revision thereof approved by the Secretary and adopted by such operator, so that, as each working section of the mine is abandoned, it can be isolated from the active workings of the mine with explosion-proof seals or bulkheads. For the purpose of this paragraph, the term "abandoned" as applied to any area of a mine shall include, but not be limited to, areas of a mine which are not ventilated and inspected regularly, areas where mining has been started but not completed, areas where future mining is still possible, and areas that are deserted.

(2) Each operator of a coal mine shall take reasonable measures to locate oil and gas wells penetrating coalbeds or any underground area of a coal mine. When located, such operator shall establish and maintain barriers around such oil and gas wells in accordance with State laws and regulations, except that such barriers shall not be less than three hundred feet in diameter, unless the Secretary or his authorized representative permits a lesser barrier consistent with the applicable State laws and regulations where such lesser barrier will be adequate to protect against hazards from such wells to the miners in such mine, or unless the Secretary or his authorized representative requires a greater barrier where the depth of the mine, other geologic conditions, or other factors warrant such a greater barrier.

(b) Whenever any working place approaches within fifty feet of abandoned workings in the mine as shown by surveys made and certified by a registered engineer or surveyor, or within two hundred feet of any other abandoned workings of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within two hundred feet of any workings of an adjacent mine, a borehole or boreholes shall be drilled to a distance of at least twenty feet in advance of the face of such working place and shall be continually maintained to a distance of at least ten feet in advance of the advancing working face. When there is more than one borehole, they shall be drilled sufficiently close to each other to insure that the advancing face will not accidentally hole through into abandoned workings or adjacent mines. Boreholes shall also be drilled not more than eight feet apart in the rib of such working place to a distance of at least twenty feet and at an angle of forty-five degrees. Such rib holes shall be drilled in one or both ribs of such working place as may be necessary for adequate protection of persons working in such place.

(c) Smoking shall not be permitted underground, nor shall any person carry smoking materials, matches, or lighters underground. Smoking shall be prohibited in or around oil houses, explosives magazines, or other surface areas where such practice may cause a fire or explosion. The operator of a coal mine shall institute a program, approved by the Secretary, at each mine to insure that any person entering the underground portion of the mine does not carry smoking materials, matches, or lighters.

(d) Persons underground shall use only permissible electric lamps approved by the Secretary for portable illumination. No open flame shall be permitted in any underground mine except as specifically authorized by this Act.

(e) The Secretary shall prescribe the manner in which all underground working places in a mine shall be illuminated by permissible lighting while persons are working in such places.

(f) (1) At least two separate and distinct travelable passageways which are maintained to insure passage at all times of any persons, including disabled persons, and which are to be designated as escapeways, at least one of which is ventilated with intake air, shall be provided from each working section of a mine continuous to the surface escape drift opening, or continuous to the escape shaft or slope facilities to the surface, as appropriate, and shall be maintained in safe condition and properly marked. Mine openings shall be adequately protected to prevent the entrance into the underground portion of the mine of surface fires, fumes, smoke, and flood water. Adequate and readily accessible escape facilities approved by the Secretary or his authorized representative, properly maintained, and frequently tested shall be immediately present at or in each escape shaft or slope to allow all persons, including disabled persons, to escape quickly to the surface in the event of an emergency.

(2) Not more than twenty miners shall be allowed at any one time in any mine until a connection has been made between the two mine openings, and such work shall be prosecuted with reasonable diligence.

(3) When only one main opening is available, owing to final mining of pillars, not more than twenty miners shall be allowed in such mine at any one time, except that the distance between the mine opening and working face shall not exceed five hundred feet.

(4) In the case of all coal mines opened on or after the operative date of this title, and in the case of all new working sections opened on or after such date in coal mines opened prior to such date, the escapeway required by this subsection to be ventilated with intake air shall be separated from the belt and trolley haulage entries of the mine for the entire length of such entries to the beginning of each working section, except that the Secretary or his authorized representative may permit such separation to be extended a greater or lesser distance so long as the safety of the miners is assured.

(g) After the operative date of this title, all structures erected on the surface within one hundred feet of any mine opening shall be of fireproof construction. Unless structures existing on or prior to such date located within one hundred feet of any mine opening are of such construction, fire doors shall be erected at effective points in mine openings to prevent smoke or fire from outside sources endangering men working underground. These doors shall be tested at least monthly to insure effective operation. A record of such tests shall be kept and shall be available for inspection by interested persons.

(h) Adequate measures shall be taken to prevent explosive gases and coal dust from accumulating in excessive concentrations in or on surface coal-handling facilities, but in no event shall explosive gases be permitted to accumulate in concentrations in or on surface coal-handling facilities in excess of limits established for explosive gases by the Secretary within one year of the operative date of this title, and coal dust shall not accumulate in excess of limits prescribed by or under this Act. Where coal is dumped at or near air-intake openings, provisions shall be made to prevent the dust from entering the mine.

(i) Every operator of a coal mine shall provide a program, approved by the Secretary, of training and retraining of both qualified and certified persons needed to carry out functions prescribed in this title.

(j) Whenever the Secretary finds that a mine liberates excessive quantities of explosive gases during its operations, or that a gas ignition or explosion has occurred in such mine which resulted in death or serious injury at any time during the previous five years, or that there exists in such mine other especially hazardous conditions, he shall provide a minimum of twenty-six spot inspections of all or part of such mine each year at irregular intervals by his authorized representative.

(k) An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that the face equipment, including shuttle cars, be provided with substantially constructed canopies or cabs to protect the operators of such equipment from roof falls and from rib and face rolls.

(l) The opening of any mine that is declared inactive by its operator or is abandoned for more than ninety days, after the operative date of this title, shall be sealed in a manner prescribed by the Secretary. Openings to all active coal mines shall be adequately protected to prevent entrance by unauthorized persons.

(m) Each mine shall provide adequate facilities for the miners to change from the clothes worn underground, to provide the storing of such clothes from shift to shift, and to provide sanitary and bathing facilities. Sanitary toilet facilities shall be provided in the active workings of the mine when such surface facilities are not readily accessible to the active workings.

(n) Arrangements shall be made in advance for obtaining emergency medical assistance and transportation for injured persons. Emergency communications shall be provided to the nearest point of assistance. Selected agents of the operator shall be trained in first aid and first aid training shall be made available to all miners. Each mine shall have an adequate supply of first aid equipment located on the surface, at the bottom of shafts and slopes, and at other strategic locations near the working faces. In fulfilling each of the requirements in this subsection, the operator shall meet at least minimum standards established by the Surgeon General. Each operator shall file with the Secretary a plan setting forth in such detail as the Secretary may require the manner in which such operator has fulfilled the requirements in this section.

(o) A self-rescue device approved by the Secretary shall be made available to each miner by the operator which shall be adequate to protect such miners for one hour or longer. Each operator shall train each miner in the use of such device.

(p) The Secretary shall prescribe improved methods of assuring that miners are not exposed to atmospheres that are deficient in oxygen.

(q) Each operator of a coal mine shall establish a check-in and check-out system which will provide positive identification of every person underground and will provide an accurate record of the miners in the mine kept on the surface in a place chosen to minimize the danger of destruction by fire or other hazard. Such record shall bear a number identical to an identification check that is securely fastened to the lamp belt worn by the person underground. The identification check shall be made of a rust resistant metal of not less than sixteen gauge.

(r) The Secretary shall require, when technologically feasible, that devices to suppress ignitions be installed on electric face cutting equipment.

(s) Whenever an operator mines coal in a manner that requires the construction, operation, and maintenance of tunnels under any river, stream, lake, or other body of water, such operator shall obtain a permit from the Secretary which shall include such terms and conditions as he deems appropriate to protect the safety of men working or passing through such tunnels from cave-ins and other hazards. Such permits shall require, in accordance with a plan to be approved by the Secretary, that a safety zone be established beneath and adjacent to any such body of water that is, in the judgment of the Secretary, sufficiently large to constitute a hazard. No plan shall be approved unless there is a minimum of rock cover to be determined by the Secretary based on test holes drilled by the operator in a manner to be prescribed by the Secretary.

(t) The Secretary shall require that developed and improved devices and systems for the monitoring and detection of mine safety conditions and for the protection of the individual miner be acquired by each operator of a coal mine and that such devices and systems be used as soon as they become available.

(u) All haulage equipment acquired by an operator of a coal mine on or after one year after the operative date of this title shall be equipped with automatic couplers which shall couple by impact and uncouple without the necessity of men going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on the operative date of this title shall also be so equipped within four years after the operative date of this title.

(v) An adequate supply of potable water shall be provided for drinking purposes in the active workings of the mine, and such water shall be carried, stored, and otherwise protected in sanitary facilities.

(w) The Secretary shall send a copy of every proposed standard or regulation at the time of publication in the Federal Register to the operator of each coal mine and the representative of the miners at such mine and such copy shall be immediately posted on the bulletin board of the mine by the operator or his agent, but failure to receive such notice shall not relieve anyone of the obligation to comply with such standard or regulation.

(x) An employee, the duties of whose position are primarily the inspection of coal mines, including an employee engaged in this activity and transferred to a supervisory or administrative position, who attains the age of fifty years and completes twenty years of service in the performance of those duties may, if the Secretary recommends his retirement and the Civil Service Commission approves, voluntarily retire and be paid an annuity. Any such employee who attains the age of sixty years and completes fifteen years of service may voluntarily retire on an annuity, unless the Secretary determines that such retirement would not be in the best interests of the program and, in such case, the Secretary may extend such employee's service on an annual basis. An employee who retires under this subsection shall be entitled to annuity of 2½ per centum of his average pay multiplied by his total service, except that the annuities shall not exceed 80 per centum of his average pay. As used in this subsection, the terms "employee", "average pay", and "service" have the meaning ascribed to those terms in subchapter III, chapter 83, title 5, United States Code, and the provisions of that subchapter respecting payment and adjustment of annuity, survivor annuities, and related matters, shall apply with respect to employees retiring under this subsection.

(y) (1) No person shall discharge or in any other way discriminate against or cause to be discharged or discriminated against any miner or any authorized representatives of miners by reason of the fact that such miner or representative (A) has notified the Secretary or his authorized representative of any alleged violation or danger pursuant to section 103(g) of this title, (B) has filed, instituted, or counsel to be instituted any proceeding under this Act, or (C) has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(2) Any miner or a representative of miners who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) of this subsection may, within thirty days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party, to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue an order requiring the person committing such violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the

rehiring or reinstatement of the miner or representative of miners to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein. Any decision issued by the Secretary under this paragraph shall be subject to judicial review in accordance with the provisions of this Act. Violations by any person of paragraph (1) of this subsection shall be subject to the civil penalties provisions of this Act.

(3) Whenever an order is issued under this subsection, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

DEFINITIONS

SEC. 318. For the purpose of this title and title II of this Act, the term—

(a) "certified person" means a person certified by the State in which the coal mine is located to perform duties prescribed by such sections, except that, in a State where no program of certification is provided or where the program does not meet at least minimum Federal standards established by the Secretary, such certifications shall be by the Secretary;

(b) "qualified person" means, as the context requires, an individual deemed qualified by the Secretary to make tests and examinations required by this Act; and an individual deemed, in accordance with minimum requirements to be established by the Secretary, qualified by training, education, and experience, to perform electrical work, to maintain electrical equipment, and to conduct examinations and tests of all electrical equipment.

(c) "permissible" as applied to—

(1) equipment used in the operation of a coal mine, means equipment to which an approval plate, label, or other device is attached as authorized by the Secretary and which meets specifications which are prescribed by the Secretary for the construction and maintenance of such equipment and are designed to assure that such equipment will not cause a mine explosion or a mine fire,

(2) explosives, shot firing units, or blasting devices used in such mine, means explosives, shot firing units, or blasting devices which meet specifications which are prescribed by the Secretary, and

(3) the manner of use of equipment or explosives, shot firing units, and blasting devices, means the manner of use prescribed by the Secretary;

(d) "rock dust" means pulverized limestone, dolomite, gypsum, anhydrite, shale, talc, adobe, or other inert material, preferably light colored, 100 per centum of which will pass through a sieve having twenty meshes per linear inch and 70 per centum or more of which will pass through a sieve having two hundred meshes per linear inch; the particles of which when wetted and dried will not cohere to form a cake which will not be dispersed into separate particles by a light blast of air; and which does not contain more than 5 per centum of combustible matter or more than a total of 3 per centum of free and combined silica (SIC_2) or, where the Secretary finds that such silica concentrations are not available, up to 5 per centum of free and combined silica;

(e) "coal mine" includes areas of adjoining mines connected underground;

(f) "anthracite" means coals with a volatile ratio equal to 0.12 or less;

(g) "volatile ratio" means volatile matter content divided by the volatile matter plus the fixed carbon;

(h)(1) "working face" means any place in a coal mine in which work of extracting coal from its natural deposit in the earth is done,

(2) "working place" means the area of a coal mine inby the last open crosscut,

(3) "working section" means all areas of the coal mine from the loading point of the section to and including the working faces,

(4) "active workings" means any place in a coal mine where miners are normally required to work or travel;

(i) "abandoned areas" means sections, panels, and other areas that are not ventilated and examined in the manner required for active underground working places;

(j) "electric face equipment" means electric equipment that is installed or used inby the last open crosscut in an entry or a room;

(k) "registered engineer" or "registered surveyor" means an engineer or surveyor registered by the State pursuant to standards established by the State meeting at least minimum Federal requirements established by the Secretary, or if no such standards are in effect, registered by the Secretary;

(l) "low voltage" means up to and including 660 volts; "medium voltage" means voltages from 661 to 1,000 volts; and "high voltage" means more than 1,000 volts;

(m) "average concentration" means a determination which accurately represents the atmospheric conditions with regard to respirable dust during a full working shift; such determination shall be the result of applying valid statistical techniques to the minimum necessary measurement of respirable dust; and

(n) "respirable dust" means only dust particulates 5 microns or less in size.

TITLE IV—ADMINISTRATION

RESEARCH

SEC. 401. (a) The Secretary and the Secretary of Health, Education, and Welfare, as appropriate, shall conduct such studies, research, experiments, and demonstrations as may be appropriate.

(1) to improve working conditions and practices, prevent accidents, and control the causes of occupational diseases originating in the coal-mining industry;

(2) to develop new or improved methods of recovering persons in coal mines after an accident;

(3) to develop new or improved means and methods of communication from the surface to the underground portion of the mine;

(4) to develop new or improved means and methods of reducing concentrations of respirable dust in the mine. Such research shall consist primarily, but not exclusively, of (I) studies of the relationship between coal mine environments and occupational diseases of coal mine workers; (II) epidemiological studies to (i) identify and define positive factors involved in the diseases of coal miners, (ii) provide information on the incidence and prevalence of pneumoconiosis and other respiratory ailments of coal miners, and (iii) develop criteria on the basis of which coal mine standards can be based; (III) medical prevention and control of diseases of coal miners, including tests for hypersusceptibility and early detection; (IV) evaluation of bodily impairment in connection with occupational disability of coal miners; (V) development of methods, techniques, and programs of effective rehabilitation of coal miners injured or stricken as a result of their occupation; and (VI) setting the requirements, extent and specifications for the medical examinations provided in section 203 of this Act, and utilizing and studying the material, data, and findings of such examinations for the preparation and publication, from time to time, of reports on all significant aspects of the diseases of coal miners as well as on the medical aspects of injuries other than diseases, which are revealed by the research carried on pursuant to this subsection;

(5) to study the relationship between coal mine environments and occupational diseases of coal mine workers; and

(6) for such other purposes as it deems necessary to carry out the purposes of this Act.

(b) To accomplish the objectives established in subsection (a), the Secretary shall distribute funds available to him under this section as equally as practicable between himself and the Secretary of Health, Education, and Welfare. Activities under this section in the field of coal mine health shall be carried out by the Secretary of Health, Education, and Welfare, and activities under this section in the field of coal mine safety shall be carried out by the Secretary of the Interior. In carrying out activities under this section the Secretaries of Health, Education, and Welfare and of the Interior may enter into contracts with, and make grants to, public and private agencies and organizations and individuals. No research shall be carried out, contracted for, sponsored, cosponsored, or authorized under authority of this Act, unless all information, uses, products, processes, patents, and other developments resulting from such research will (with such exception and limitation, if any, as the Secretary or the Secretary of Health, Education, and Welfare may find to be necessary in the interest of national security) be available to the general public.

(c) There is hereby authorized to be appropriated for each fiscal year such sums as may be needed to carry out the purposes of section 203(a) and of this section.

(d) No payment may be required of any coal miner in connection with any examination or test given him pursuant to subsection (a) of section 203. Where such examinations or tests cannot be given due to the lack of adequate medical or other necessary facilities or personnel in the locality where the miner resides, arrangements shall be made to have them conducted in such locality by the Secretary of Health, Education, and Welfare, or by an appropriate and qualified person, agency or institution, public or private, under an agreement or arrangement between the Secretary of Health, Education, and Welfare and such person, agency or institution. Such examinations and tests shall be conducted in accordance with the provisions of subsection (a) of section 203. The operator of the coal mine shall reimburse the Secretary of Health, Education, and Welfare, or such person, agency or institution, as the case may be, for the cost of conducting each such examination or test and shall pay whatever other costs are necessary to enable the miner to take such examinations or tests.

(e) If the death of any active miner occurs in any coal mine, or if the death of any active or inactive miner occurs in any other place, the Secretary of Health, Education, and Welfare is authorized to provide for an autopsy to be performed on such miner, with the consent of his surviving widow or, if he has no such widow, then with the consent of his next of kin. The results of such autopsy shall be submitted to the Secretary of Health, Education, and Welfare and, with the consent of such survivor, to the miner's physician or other interested person. Such autopsy shall be paid for by the Secretary of Health, Education, and Welfare.

(f) On and after the operative date of this title, the standards on noise prescribed under the Walsh-Healy Public Contracts Act, as amended, in effect October 1, 1969, or any such improved standards as the Secretary may prescribe shall be applicable to each coal mine and each operator of such mine shall comply with them. Beginning six months after the operative date of this title, at intervals of at least every six months thereafter, the operator of each mine shall conduct, in a manner prescribed by the Secretary, tests by a qualified person of the noise level at the mine and certify the results to the Secretary.

If the Secretary determines, based on such tests or any tests conducted by his authorized representative, that such standards on noise are exceeded, such operator shall immediately undertake to install protective devices or other means of protection to reduce the noise level in the affected area of the mine, except that the operator shall not require the use of any protective device or system which the Secretary or his authorized representative finds will be hazardous or cause a hazard to the miners in such mine.

TRAINING AND EDUCATION

SEC. 402. The Secretary shall expand programs for the education and training of coal mine operators, agents thereof, and miners in—

(1) the recognition, avoidance, and prevention of accidents or unsafe or unhealthful working conditions in coal mines; and

(2) in the use of flame safety lamps, permissible methane dectectors, and other means approved by the Secretary for accurately detecting gases.

ASSISTANCE TO STATES

SEC. 403. (a) The Secretary, in coordination with the Secretaries of Labor and of Health, Education, and Welfare, is authorized to make grants to any State, in which coal mining takes place—

(1) to conduct research and planning studies and to carry out plans designed to improve State workmen's compensation and occupational disease laws and programs, as they relate to compensation for pneumoconiosis and injuries in coal mine employment; and

(2) to assist the States in planning and implementing other programs for the advancement of health and safety in coal mines.

(b) Grants under this section shall not extend beyond a period of five years following the effective date of this Act.

(c) Federal grants under this section shall be made to States which have a plan or plans approved by the Secretary.

(d) The Secretary shall approve any plan which—

(1) provides that reports will be made to the Secretary, in such form and containing such information, as may reasonably be necessary to enable him to review the effectiveness of the program or programs involved, and that records will be kept and afford such access thereto as he finds necessary or appropriate to assure the correctness and verification of such reports;

(2) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting for Federal funds paid to the State;

(3) contains assurances that the State will not in any way diminish existing State programs or benefits with respect to pneumoconiosis and related conditions; and

(4) meets any additional conditions which the Secretary may prescribe by rule in furtherance of the provisions of this section.

(e) The Secretary shall not finally disapprove any State plan, or modification thereof, without affording the State reasonable notice and opportunity for a hearing.

(f) The amount granted any State for a fiscal year under this section may not exceed 80 per centum of the amount expended by such State in such year for carrying out such programs, studies, and research.

(g) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and each of the succeeding fiscal years for carrying out this section, the sum of $1,000,000.

EQUIPMENT

SEC. 404. The Secretary is authorized, during the period ending five years after the date of enactment of this Act, to make loans to operators of coal mines to enable them to procure or convert equipment needed by them to comply with the provisions of this Act. Loans made under this section shall have such maturities as the Secretary may determine, but not in excess of twenty years. Such loans shall bear interest at a rate which the Secretary determines to be adequate to cover (1) the cost of the funds to the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Secretary under this section, (2) the cost of administering this section, and (3) probable losses. In carrying out this section, the Secretary shall to the extent feasible use the services of the Small Business Administration pursuant to agreements between himself and the Administrator thereof.

INSPECTORS; QUALIFICATIONS; TRAINING

SEC. 405. The Secretary may, subject to the civil service laws, appoint such employees as he deems requisite for the administration of this Act and prescribe their duties. Persons appointed as authorized representatives of the Secretary under the provisions of this section shall be qualified by practical experience in the mining of coal or by experience as a practical mining engineer and by education. Such persons shall be adequately trained by the Secretary. The Secretary shall seek to develop programs with educational institutions and operators designed to enable persons to qualify for positions in the administration of this Act. In selecting persons and training and retraining persons to carry out the provisions of this Act, the Secretary shall work with appropriate educational institutions and operators in developing and maintaining adequate programs for the training and continuing education of persons, particularly inspectors, and, where appropriate, shall cooperate with such institutions in the conduct of such programs by providing financial and technical assistance.

EFFECT ON OTHER LAW

SEC. 406. (a) No State law in effect upon the effective date of this Act or which may become effective thereafter, shall be superseded by any provision of this Act or order issued or standard promulgated thereunder, except insofar as such State law is in conflict with this Act or with any order issued or standard promulgated pursuant to this Act.

(b) The provisions of any State law or regulation in effect upon the effective date of this Act, or which may become effective thereafter, which provide for more stringent health and safety standards applicable to coal mines than do the provisions of this Act or any order issued or standard promulgated thereunder shall not thereby be construed or held to be in conflict with this Act. The provisions of any State law or regulation in effect upon the effective date of this Act, or which may become effective thereafter, which provide for health and safety standards applicable to coal mines for which no provision is contained in this Act or any order issued or standard promulgated thereunder, shall not be held to be in conflict with this Act.

ADMINISTRATIVE PROCEDURES

SEC. 407. Except as otherwise provided in this Act, the provisions of sections 551–559 and sections 701–706 of title 5 of the United States Code shall not apply to the making of any order or decision made pursuant to this Act, or to any proceeding for the review thereof.

REGULATIONS

SEC. 408. The Secretary is authorized to issue such administrative regulations as he deems appropriate to carry out any provision of this Act.

OPERATIVE DATE AND REPEAL

SEC. 409. The provisions of title I and III of this Act shall become operative 90 days after enactment. The provisions of title II of this Act shall become operative six months after enactment. The provisions of the Federal Coal Mine Safety Act, as amended, are repealed on the operative date of titles I and III of this Act, except that such provisions shall continue to apply to any order, notice, or finding issued under that Act prior to such operative date and to any proceedings related to such order, notice, or findings. All other provisions of this Act shall be effective on the date of enactment of this Act.

SEPARABILITY

SEC. 410. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

REPORTS

SEC. 411. (a) Within one hundred and twenty days following the convening of each session of Congress, the Secretary shall submit through the President to the Congress and to the Office of Science and Technology an annual report upon the subject matter of this Act, the progress concerning the achievement of its purposes, the needs and requirements in the field of coal mine health and safety, the amount and status of each loan made under section 404, a description and the anticipated cost of each project and program he has undertaken under section 401, and any other relevant information, including any recommendations he deems appropriate.

(b) Within one hundred and twenty days following the convening of each session of Congress, the Secretary of Health, Education, and Welfare shall submit through the President to the Congress, the Secretary, and to the Office of Science and Technology an annual report upon the health matters covered by this Act, including the progress toward the achievement of the health purposes of this Act, the needs and requirements in the field of coal mine health, a description and the anticipated cost of each project and program he has undertaken under section 401, and any other relevant information, including any recommendations he deems appropriate. The first such report shall include the recommendations of the Secretary of Health, Education, and Welfare as to necessary health standards, including his recommendations as to the maximum permissible individual exposure to coal mine dust during a working shift.

SPECIAL REPORT

SEC. 412. (a) The Secretary shall make a study to determine the best manner to coordinate Federal and State activities in the field of coal mine health and safety so as to achieve (1) maximum health and safety protection for miners, (2) an avoidance of duplication of effort, (3) maximum effectiveness, (4) reduce delay to a minimum, and (5) permit most effective use of Federal inspectors.

(b) The Secretary shall make a report of the results of his study to the Congress as soon as practicable after the date of enactment of this Act.

And amend the title so as to read: "An act to provide for the protection of the health and safety of persons working in the coal mining industry of the United States, and for other purposes."

Mr. WILLIAMS of New Jersey. Mr. President, I move that the Senate disagree to the amendment of the House on S. 2917 and agree to the conference requested by the House thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. WILLIAMS of New Jersey, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. MONDALE, Mr. EAGLETON, Mr. CRANSTON, Mr. JAVITS, Mr. PROUTY, Mr. SCHWEIKER, Mr. SAXBE, and

Mr. SMITH of Illinois conferees on the part of the Senate.

Mr. BYRD of West Virginia. 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. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move that the Senate adjourn until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 1 o'clock and 40 minutes p.m.) the Senate adjourned until Tuesday, November 4, 1969, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate November 3, 1969:

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Lt. Gen. John J. Davis, U.S. Army, of Kansas, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

U.S. MARSHAL

George A. Locke of Washington to be U.S. marshal for the eastern district of Washington for the term of 4 years, vice James E. Atwood.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 3, 1969:

DEPARTMENT OF DEFENSE

Robert Louis Johnson, of California, to be an Assistant Secretary of the Army.

U.S. ARMY

The following-named officer, under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and repsonsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. Lewis Blaine Hershey, [redacted], Army of the United States.

The Army National Guard of the United States officer named herein for promotion as a Reserve commissioned officer of the Army, under provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. Sylvester T. DelCorso, [redacted] Adjutant General's Corps.

U.S. MARINE CORPS

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of major general:

Douglas J. Peacher
Charles T. Hagan, Jr.

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of brigadier general:

John R. Blandford
William J. Weinstein
Harold L. Oppenheimer

IN THE AIR FORCE

The nominations beginning Edward F. Abbey, to be major, and ending Martin G. Rubin, to be major, which nomination were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 13, 1969.

IN THE ARMY

The nominations beginning William L. Nichols, to be lieutenant colonel, and ending Donald D. Zana, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 30, 1969; and

The nominations beginning John P. Lewis, to be major, and ending James R. Powell, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 8, 1969.

IN THE NAVY

The nominations beginning Thomas C. Adams, to be commander, and ending Stephen L. Zwick, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 22, 1969.

IN THE MARINE CORPS

The nominations beginning John W. Alber, to be lieutenant colonel, and ending Dennis A. Williams, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 22, 1969; and

The nominations beginning Lorenza T. Baker, to be second lieutenant, and ending Wayne P. Thompson, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 8, 1969.

HOUSE OF REPRESENTATIVES—*Monday, November 3, 1969*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

He that dwelleth in the secret place of the Most High shall abide under the shadow of the Almighty.—Psalm 91: 1.

Almighty and Everlasting God, above the disturbances of our busy days and the disorders of our troubled times we would come to Thee seeking the calm of Thy holy presence. In the secret place of the Most High we would dwell, lifting our hearts unto Thee, praying for the guidance of Thy spirit and the direction of Thy wisdom as we face the experiences of another day.

Help us to serve our country with persistent faithfulness and patient fidelity that we may keep our Nation the hope of the world and the channel of peace for our generation. By Thy grace may we continue to work for the day when nation shall not lift up sword against nation, neither shall they learn war any more.

In the spirit of the Prince of Peace we pray. Amen.

THE JOURNAL

The Journal of the proceedings of Friday, October 31, 1969, was read and approved.

ROGERS ASKS DISSENTERS TO TAKE NOTE OF RETURNING HIJACKERS

(Mr. ROGERS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS of Florida. Mr. Speaker, I hope that those who preach against and demonstrate for the overthrow of our Government will take note of the return of six Americans who hijacked planes and had them flown to Cuba.

These people, who turned their backs on their homeland, quickly realized the blessings of life in the United States compared to life under the Communist dictatorship of Fidel Castro. And it must be realized that these six returned to the United States even though they now face possible death sentences.

I think this thoroughly repudiates the propaganda that life in Cuba today is anything short of a depression level.

I hope that those who denounce the United States will take careful note of what those who have left America and experienced life in a Communist country have to say now.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

PROVIDING FOR THE CONVEYANCE OF CERTAIN REAL PROPERTY OF THE FEDERAL GOVERNMENT TO THE BOARD OF PUBLIC INSTRUCTION, OKALOOSA COUNTY, FLA.

The Clerk called the bill (H.R. 7618) to provide for the conveyance of certain real property of the Federal Government to the Board of Public Instruction, Okaloosa County, Fla.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. ASPINALL. Mr. Speaker, reserving the right to object, and I shall have to object under the rules for the consideration of such legislation unless there is a good case made here at this time in reference to the legislation to show why we should pass this bill by unanimous consent when there are objections from two departments of the Government and the other department defers to the two departments that do object.

Mr. BENNETT. Mr. Speaker, will the gentleman yield?

Mr. ASPINALL. I yield to the gentleman.

Mr. BENNETT. Mr. Speaker, the bill, H.R. 7618, is a bill to provide for the conveyance of real property of the Federal Government to the Board of Public Transportation of Okaloosa County, Fla.

Over 50 percent of the real property in this county, Okaloosa County, is occupied by the Federal Government. Of the 26,000 public school students, 17,000, the vast majority, are dependents of military or civil service employees in the area.

During our hearings on this conveyance, and I am the chairman of the Real Estate Subcommittee handling this matter, and the bill is not for myself but it is for the gentleman from Florida (Mr.

SIKES), the General Services Administration objected to the bill because of the fact they claim the laws presently in existence are adequate to accomplish the proposed transaction.

The law they are talking about is the Federal Property and Administrative Services Act of 1949. This particular law would be adequate to accomplish the proposed conveyance if, in fact, the land in question were actually excess to the needs of the Air Force. However, the land involved is not excess to the Air Force requirement for its purpose. It desires to have the large acreage which is involved in this Air Force base to remain within the Air Force area. It is an integral part of the Eglin Air Force Base, and it would be quite improper for a noneducational, nonmilitary-service type of activity to be in this area. The Air Force, while recognizing the technicality involved, is willing to make available the land in question, and has written the committee to this effect:

While there exists no planned mission for the use of the land covered by this bill, it would not normally be declared surplus as it is an integral part of the Eglin Air Force Base. In addition, no foreseeable Air Force requirement exists which would result in the acquisition of other lands to replace the land which would be conveyed by this bill.

The land is presently needed for the construction of school buildings. The situation at the present time is such that 20 or 30 barracks-type classrooms are being utilized, and children are being bused 15 or 20 miles, which is inconvenient, of course, and inimical to their education.

I urge approval of this bill so that the school can be built on this land. The State of Florida has agreed to the construction of five school buildings with money of the local government and not with Federal funds.

The truth of the matter is that this is a county which is mostly military. Most of the land is military; most of the personnel in the school will be children of the military. The local government will build the school buildings, but they would like this land because it is close to where the military people are. Most of the students will be the children of military personnel. It is only a technicality which gives rise to this negative report on the part of the Department. They say they want the schools to be built there. They say they want the land to be used for that purpose.

Mr. ASPINALL. I understand the provisions of the legislation, but the gentleman's area is no different from mine, where 50 percent of my whole district is owned by the U.S. Government, as far as that is concerned.

Mr. BENNETT. But not over 50 percent of your students are military, and that is what you have here.

Mr. ASPINALL. I do not have too many of such students, thank goodness, as far as that is concerned.

Mr. BENNETT. The school is going to be for the children of military personnel.

Mr. ASPINALL. What I am trying to find out is this. There is a statement that the land is surplus, but the Air Force will not recognize it as surplus to its needs. There is a statement in the report that the Department of Health, Education, and Welfare is opposed to the legislation. Can the gentleman assure us that the Air Force will not be asking for this amount of land someplace else, if this land is at the present time in the position that it cannot be declared surplus but can be used with their approval for the purpose stated in the legislation.

Mr. BENNETT. I would like to yield to the author of the bill on this point.

Mr. ASPINALL. I yield to our colleague from Florida.

Mr. SIKES. Mr. Speaker, I thank the gentleman for yielding. The Eglin Air Force Reservation comprises a half million acres of land. There is adequate land and there is no possibility that additional land will be needed later for air training purposes. The site for schools which we seek is located around the perimeter of the base, and next to congested built-up civilian areas. This buildup means it cannnot be used for military training. The Air Force is reluctant to declare it surplus, because it is not possible to know into whose hands the land would fall if it were declared surplus. The Air Force wants it used for school purposes, because the majority of the children who would attend the facilities provided at this site are Air Force children, and children of civilian workers at the Air Force base.

We have 26,500 students in Okaloosa County; 5,500 of them do not have adequate facilities. They are either going to school in converted, substandard military barracks, or they are going to school in double shifts from 6:30 in the morning until 7 at night. It is an extremely bad situation. If we make the sites available the children can have schools.

The Air Force wants this land used for the school. It does not want it used for any other purpose, and is reluctant to declare it surplus because they feel it might fall into other hands and be denied for school sites.

Mr. ASPINALL. May I ask my friend from Florida why it is that HEW is opposed to the enactment of the bill?

Mr. SIKES. If the distinguished gentleman will yield further, the simple fact of the matter is that they have testifed they are in sympathy with the proposal but they want the acquisition to go through the normal channels. They want it to be declared surplus and go through the regular channels. We have explained why it is difficult for it to go through the normal channels, with a declaration of surplus. We feel it is primarily a matter of pique on the part of the objecting governmental agencies that they are not in the chain of disposal; that the property is not going through procedures which would normally bring them into the picture.

If we lose this land which is so badly needed for schools, it will mean further delays in making schools available. This we are extremely anxious to avoid. We have already taken much longer than we should have in providing schools for the children. Their needs cannot wait and the Congress should and can help now.

The only objection the departments could possibly raise is in procedure. They have testified they want the land used for school purposes; that they recognize the need. We do not see that it is necessary to go through normal procedures. We do know it is not good to delay this matter further. It hurts only the children.

Mr. ASPINALL. Mr. Speaker, having made legislative record that we have, I withdraw my reservation of objection.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, reserving the right to object, I would like to further interrogate the gentleman from Florida. I am familiar with the people of Volusia County, having gone to school there. They are a pretty conservative group of people.

Will they vote a bond issue on a military base to provide a school for 7,000 or 8,000 people? I am wondering first of all can the gentleman answer how much it will cost to build schools to handle the students on this 110 acres?

Mr. SIKES. Mr. Speaker, if the distinguished gentleman from Pennsylvania will yield, this measure does not have to do with Volusia County. The gentleman is thinking of the Cape Kennedy Center. The bill before us refers to Okaloosa County only.

I am glad to state the money is available to build the five schools which are needed and for which we seek to provide sites. I will also state to the distinguished gentleman, it is State and county money which will be used for the construction of the buildings.

Mr. JOHNSON of Pennsylvania. Then the gentleman assures us they will not 4 or 5 years from now come back and say they are sorry, but they do not have the money and the Federal Government must contribute.

Mr. SIKES. Mr. Speaker, if the gentleman will yield, the money is available and on hand. The school officials are waiting only for the sites to be made available. The reason these sites are so badly needed is because the area surrounding the base is built up with residences and businesses, and sites which are privately owned would be extremely costly. There is not money for both buildings and sites where the schools are needed. If these sites are not available it will mean going miles away from the area to acquire sites. This would require additional busing for the children and longer hours away from home.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, 110 acres seems like a very large tract of land. Would the whole 110 acres be needed?

Mr. SIKES. The land—135 acres—is not all in one tract. There are five tracts of land, and there will be five different buildings in as many different areas. The sites are located around the perimeter of the base. They are admirably situated for the purpose of school sites in a congested area.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I withdraw my reservation of objection. I think what they are trying to do is highly laudatory and will probably accomplish a very worthwhile purpose.

Mr. GROSS. Mr. Speaker, reserving the right to object, what would be wrong with the Air Force declaring this land surplus and with a provision in the bill

that it will revert if it is not used for the stated purpose?

Mr. SIKES. If the gentleman from Iowa will yield, the Air Force has provided me with letters which spell out the reasons for this. If the gentleman will bear with me, I will read those letters.

Mr. GROSS. I will be glad to yield to the gentleman for that purpose.

Mr. SIKES. Mr. Speaker, the letters, dated October 15 and 20, from the Air Force, Deputy Assistant Secretary—Installations—Lewis E. Turner, are as follows:

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., October 15, 1969.

Hon. ROBERT L. F. SIKES,
House of Representatives,
Washington, D.C.

DEAR MR. SIKES: This is in response to your request for the position of the Air Force on the attached letter from HEW on the Okaloosa school site problem.

You will recall that when we met on this matter on September 26, 1969, we agreed that the proper and most expeditious course to follow to assure that the property is made available to Okaloosa County for school purposes is to proceed with action on H.R. 7618. This position was firmly supported by the Office of the Secretary of Defense on the basis that, in a technical sense, property is not "excess" if its disposal is limited to a single recipient or use. Further, under any form of an "excess" declaration on Department of Defense property, the property must be offered first to the other military services before it can be offered, in turn, to other federal agencies, state and local governments, and interested private parties. There is no way, therefore, to assure the property will not be claimed in advance by an agency other than the one desiring to acquire it.

Informally, GSA also has advised us that normally it will not accept "conditional" excess reports, except where any interest but one would hold the property as a nuisance. Also, for the same reasons noted above, GSA agrees it cannot *assure* the ultimate recipient of the property under the "excess" route.

I have discussed the attached HEW letter with OSD and we are agreed that it does not change our previously stated position, as the procedure outlined in the HEW letter is conditioned upon "acceptance of a report of excess limiting the availability of the four sites . . .". Therefore, the "excess" route cannot assure either that the property ultimately will be cleared for transfer to Okaloosa County or that, if it did eventually clear, the transfer could be accomplished in any reasonably short period of time.

In view of the above and the stage of legislative progress on H.R. 7618, I still feel (and OSD agrees) that the only practical course to assure transfer of property to Okaloosa County in the shortest possible time is to proceed with action to obtain Congressional approval of the bill.

Sincerely,

LEWIS E. TURNER,
Deputy Assistant Secretary (Installations).

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., October 20, 1969.

Hon. ROBERT L. F. SIKES,
House of Representatives,
Washington, D.C.

DEAR MR. SIKES: This is in response to your request for my reaction on the attached letter from GSA concerning land at Eglin AFB for Okaloosa County schools. My letter of October 15, 1969, gave our views on a similar letter to you from HEW.

As in the HEW letter, the procedures outlined by GSA are subject to the Air Force and the Department of Defense declaring the property in question "excess" to military requirements and the further determination by GSA that the property is "surplus to federal requirements." As we previously discussed, and as stated in our report to the House Armed Services Committee on H.R. 7618, technically the sites are not excess. This fact, together with other factors discussed in my October 15 letter, makes it clear that the only practical course to assure that the property is transferred to Okaloosa County for school purposes is to obtain enactment of H.R. 7618.

We have been advised that H.R. 7618 was favorably reported by the House Armed Services Committee on October 16, 1969. This serves to confirm our conclusions with respect to the propriety of proceeding with action on the bill.

Sincerely,

LEWIS E. TURNER,
Deputy Assistant Secretary (Installations).

I believe the letters explain the situation very clearly and I hope that answers the gentleman's question. While we delay we are hurting little children, we benefit no one.

The gentleman raised a point a moment ago about acreage. I believe the exact amount is approximately 135 acres. The report is not quite clear on it, but I believe the correct information is that the five tracts comprise a total of 135 acres. I want to be certain that all the facts are known on the case.

Mr. GROSS. Yes. There is a discrepancy in the report as to the amount of acreage.

Mr. SIKES. I believe the gentleman will find it is 135 acres.

Mr. GROSS. One hundred thirty-five acres is not an inconsequential amount of land in Florida these days, I would think.

Let me ask the gentleman this question: Did the Federal Government buy this land originally from someone in Florida?

Mr. SIKES. If the gentleman will yield, this was land which formerly was in the Choctawhatchee National Forest. The Federal Government acquired it some 50 to 60 years ago. The cost was approximately $1 an acre.

In 1940 or thereabouts the property was deeded to the Department of Defense, then the Department of the Army, for use as a military reservation.

While the land is valuable land, the Government has very little invested in it. The children who need schools are more important than the dollar value and there is not money for both school buildings and school sites.

Mr. GROSS. What is the fair market value of this land today?

Mr. SIKES. I am unable to state the fair market value, but it would run rather high. The area around the base has since its establishment been built up with residences and businesses, as is usually true around military installations. If it were placed on the market it would command a considerable price.

What we are trying to say is that the money is available for construction, that the money is limited, that the schools are badly needed, and that everyone agrees on the need. We would like to get on with this work. We feel the schools are much more important than monetary return to the Government for the land.

Mr. GROSS. I am sure that was in part, the case with the San Jacinto Ammunition Depot. That land was cheap, too, when it was first obtained near Houston, Tex., but its value was greatly enhanced. Although it was one of the best ammunition outloading facilities in the United States it was closed, and apparently the land is being sold for the purpose for which I thought it would be—to industrial interests in the area of Houston, Tex.

Let us be fair about this business. When the State of Iowa wants Government land it pays the fair market value. I cannot understand why the school district in Florida is not now paying a fair market value for this land.

I do not recall, and I do not believe the contention will be made here today, that this area, this county in Florida, held any mass meetings to keep Eglin Air Force Base from being located in that county originally.

It seems to me that 135 acres of land is being handed over to the county out of hand.

I assume—and the gentleman can correct me if I am wrong—that this county gets plenty of impacted school aid and has some ability to pay the fair market value for this land.

This land ought to be declared surplus by the Air Force, if it is going to be turned over for this purpose or any other purpose, and this county in Florida should pay the fair market value, since it was originally Government property and since this is the rule that applies to practically everyone else.

This question is raised on every bill involving this kind of property. I objected to a bill that the gentleman from Georgia (Mr. VINSON) wanted passed, to turn back Government land to a school district in Georgia. Eventually they paid the fair market value for it.

Mr. Speaker, until and unless this land is declared surplus and a fair market value placed on it, I will have to object.

Therefore, Mr. Speaker, I object and ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

AUTHORIZED INCREASES IN NUMBERS AND ELIGIBILITY OF OFFICERS TO SERVE ON CERTAIN SELECTION BOARDS

The Clerk called the bill (H.R. 8664) to authorize an increase in the number of flag officers who may serve on certain selection boards in the Navy and in the number of officers in the Naval Reserve and Marine Corps Reserve who are eligible to serve on selection boards considering reserves for promotion.

There being no objection, the Clerk read the bill, as follows:

H.R. 8664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5701 of title 10, United States Code, is amended by—

(1) amending subsection (a)(3) to read as follows:

"(3) A board to recommend captains for promotion to the grade of rear admiral and a board to recommend commanders for promotion to the grade of captain, each consist-

ing of not less than nine officers serving in the grade of rear admiral or above."; and

(2) adding the following sentence at the end of subsection (c): "When a board convened under subsection (a)(3) consists of more than nine members, only nine officers may act upon the case of any officer designated for engineering duty, aeronautical engineering duty, or special duty; namely, the three alternate members of the same designation as the officer under consideration (or the lesser available number of such officers) plus the number of the most senior members not restricted in the performance of duty necessary to make a total of nine."

SEC. 2. The second sentence of section 5893(b) of title 10, United States Code, is amended to read as follows: "All members of each board must be serving in a grade above the grade in which the officers that are to be considered by the board are serving.".

Mr. NEDZI. Mr. Speaker, H.R. 8664 is a bill to authorize an increase in the number of flag officers who may serve on certain selection boards in the Navy and in the number of officers of the Naval Reserve and Marine Corps Reserve who are eligible to serve on selection boards considering reserves for promotion.

This bill would remove the current ceiling of nine, and only nine, flag officers who may serve on rear admiral and captain selection boards. The Navy claimed that the captain and rear admiral boards are burdened by the tremendous workload imposed by the task of selecting admirals from among 1,500 eligibles and an even larger number of commanders eligible for captain—the latter chore consuming up to 5 or 6 weeks. The Navy also claimed that the legislation would permit the number of board members to be appropriately increased so as not only to ease the burden, but also to provide representation of officers with wider varieties of experience.

The second part of the bill would remove the requirement that Reserve members of inactive-duty Reserve promotion boards be senior in both permanent and temporary grade to all officers being considered for promotion. This would make the qualifications for examining Reserve officers equivalent to that for examining Regular officers.

Because this would make more efficient use of manpower, the committee unanimously recommends enactment of this bill. I urge your support.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REMOVING RESTRICTIONS ON THE GRADES OF THE DIRECTOR AND ASSISTANT DIRECTORS OF THE MARINE CORPS BAND

The Clerk called the bill (H.R. 9564) to remove the restrictions on the grades of the director and assistant directors of the Marine Corps Band.

There being no objection, the Clerk read the bill, as follows:

H.R. 9564

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6222(d) of title 10, United States Code, is amended by striking out the words "However, the grade of the director may not be higher than lieutenant colonel and the grades of the assistant directors may not be higher than captain."

Mr. NEDZI. Mr. Speaker, H.R. 9564 is a bill to remove the restrictions on the grades of the director and assistant directors of the Marine Corps Band.

The ranks of the director and the assistant directors of the Marine Corps Band are the only ones established by statute. At the present time, the director may be a lieutenant colonel and the two assistant directors may hold a rank no higher than captain.

This bill would remove the statutory restrictions. It is envisioned that the director would be promoted to a colonel and the assistant directors to the rank of major.

It seems only fitting that there should be no statute limiting the rank of director and assistant director of the Marine Corps Band to a specific grade when the other military services have no such restrictions.

I urge the adoption of this bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING RETIRED OFFICERS OF THE U.S. NAVY TO COMMAND THE U.S.S. "CONSTITUTION" (IX-21)

The Clerk called the bill (H.R. 8662) to authorize command of the U.S.S. *Constitution* (IX-21) by retired officers of the U.S. Navy.

There being no objection, the Clerk read the bill, as follows:

H.R. 8662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of the Navy is authorized to order to active duty a retired officer of the United States Navy for the purpose of commanding the United States ship Constitution (IX-21).

Mr. NEDZI. Mr. Speaker, H.R. 8662 is a bill to authorize command of the U.S.S. *Constitution*—IX-21—by retired officers of the U.S. Navy.

This legislation would allow a retired Navy officer to command the U.S.S. *Constitution*. This ship is a historic naval vessel maintained "in-commission, active status," and is permanently berthed at the Boston Naval Shipyard. The responsibilities of the commanding officer, in addition to the usual command functions, embrace those usually associated with the positions of a museum director and curator. So that the ship may be fully developed as an extraordinary historical exhibit, the Navy believed that its commanding officer should be mature, possess an extensive knowledge of the ship and the naval period which she represents, and be able to remain associated with the ship for longer periods than the normal tour of duty. The Navy also believed that a carefully selected retired officer of the U.S. Navy would most satisfactorily fulfill these qualifications.

However, 10 U.S.C. 5955 prohibits a retired officer of the Navy from command. While this is the first time such a bill has been presented, the members of the committee believe that this situation is so unique that it will not create a precedent for other retired officers to assume command of a ship, and unanimously recommend its enactment.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ADJUSTING THE DATE OF RANK OF COMMISSIONED OFFICERS OF THE MARINE CORPS

The Clerk called the bill (H.R. 10317) to adjust the date of rank of commissioned officers of the Marine Corps.

There being no objection, the Clerk read the bill, as follows:

H.R. 10317

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 10, United States Code, is amended as follows:

(1) Section 5769 is amended by striking out subsection (d).

(2) Chapter 535 is amended by—

(a) adding the following new section:

"§ 5509. Date of rank: commissioned officers of the Marine Corps

"The President may, in accordance with the needs of the Marine Corps, adjust the dates of rank of commissioned officers of the Marine Corps."

(b) inserting the following new item in the analysis thereof.

"5509. Date of rank: commissioned officers of the Marine Corps."

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That section 5769 of title 10, United States Code, is amended as follows:

"'(1) By striking out "Except as provided in subsection (d), each" in the first sentence of subsection (c) and inserting "Each" in place thereof.

"'(2) By striking out subsection (d).

"'SEC. 2. The amendments made by this Act are effective on January 1, 1959.'"

The committee amendment was agreed to.

Mr. NEDZI. Mr. Speaker. H.R. 10317 is a bill to adjust the date of rank of commissioned officers of the Marine Corps.

This bill would authorize the President, in accordance with the needs of the service, to adjust the date of rank of commissioned officers of the Marine Corps.

The purpose of the bill is to delete the provisions of law under which an officer promoted to the grade of major general in the Marine Corps is assigned the date of rank held by him in the grade of brigadier general unless such date of rank would make him senior to any other major general, thus allowing the Marine Corps to assign dates of rank to major generals in the same manner as the Army and the Air Force.

When Army and Air Force officers are promoted to major general—approximately 3 years after promotion to brigadier general—they are assigned an arbitrary date of rank in that grade immediately junior to the junior rear admiral—upper half—in the Navy, but

senior to the senior rear admiral—lower half.

The assignment of dates of rank to Army and Air Force major generals in this manner goes back to an interservice agreement some 18 years ago. The Marine Corps was not included in this agreement since, by law, the dates of rank of their major generals were firmly established. As a result, Army and Air Force officers promoted to major general receive a date of rank which makes them senior to Marine Corps major generals.

We have amended the bill to correct a technical error and to limit the adjustment of the date of rank to those officers currently serving on active duty.

I strongly urge your support for this measure.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMITTING NAVAL FLIGHT OFFICERS TO BE ELIGIBLE TO COMMAND CERTAIN NAVAL ACTIVITIES, AND FOR OTHER PURPOSES

The Clerk called the bill (H.R. 11548) to amend title 10, United States Code, to permit naval flight officers to be eligible to command certain naval activities and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 11548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 10, United States Code, is amended as follows:

(1) Section 5942 is amended to read as follows:

(a) To be eligible to command an aircraft carrier or an aircraft tender, an officer must be an officer in the line of the Navy who is designated as a naval aviator or naval flight officer and who is otherwise qualified.

(b) To be eligible to command a naval aviation school, a naval air station, or a naval aviation unit organized for flight tactical purposes, an officer must be an officer in the line of the Navy designated as a naval aviator or naval flight officer.

(c) To be eligible to command a Marine Corps aviation school, a Marine Corps air station, or a Marine Corps aviation unit organized for flight tactical purposes, an officer must be an officer of the Marine Corps designated as a naval aviator or naval flight officer.

(2) Section 6042 is amended to read as follows:

"§ 6024. Aviation designations: naval flight officer

"Any officer of the naval service may be designated a naval flight officer if he has successfully completed the course prescribed for naval flight officers."

(3) The analysis of chapter 555 is amended by striking out the following item:

"6024. Aviation designations: naval aviation observer."

and inserting the following item in place thereof:

"6024. Aviation designations: naval flight officer."

Mr. CHARLES H. WILSON. Mr. Speaker, H.R. 11548 is a bill to amend title 10, United States Code, to permit naval flight officers to be eligible to command certain naval aviation activities and for other purposes.

This bill would amend the provisions of title 10 for the purpose of permitting naval flight officers, in addition to designated naval aviators, to be eligible for command of naval aviation schools, naval air stations, or naval aviation units organized for flight tactical purposes. It would also provide eligibility for similar Marine Corps command by naval flight officers of the Marine Corps.

Command of aviation units is now denied to naval flight officers by 10 U.S.C. 5942.

With the rapid advances in technology, the naval flight officer has assumed an ever-increasing role in the modern Navy. The numbers and increasing complexity of our current airborne weapons systems have engendered a continuous need for the services of the specially trained naval flight officers.

These young officers seek challenging assignments at all levels of their careers, promotional opportunities commensurate with their capabilities and performance opportunity for command assignments and a reasonable opportunity to compete for selection to flag rank. This bill would enhance those opportunities which they seek.

This legislation is urgently needed this year. When the naval flight officer program was established in 1964, certain officers from the earlier naval aviation observer program were given the new designation in order to provide the required depth of experience to the naval flight officer community.

These restricted aviation officers of the line are now approaching the rank of commander, and should be eligible to compete for aviation command in order to provide an orderly career advancement pattern.

I feel this is one of the most vital pieces of personnel legislation that we are undertaking this year and, since it can be achieved without increased cost, I strongly urge your support of it.

The gentleman from New York, the Honorable CARLETON KING, a member of the Armed Services Committee, introduced a companion bill which is identical to H.R. 11548 because he wanted to emphasize the serious morale problem in existence at the present time and to take steps to correct this problem.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SUBMARINE OPERATIONAL COMMAND STAFFS

The Clerk called the bill (H.R. 82) to amend title 37, United States Code, to modify requirements necessary to establish entitlement to incentive pay for members of submarine operational command staffs serving on submarines during underway operations.

There being no objection, the Clerk read the bill, as follows:

H.R. 82

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301(a)(2)(A) of title 37, United States Code, is amended to read as follows:

"(A) during one calendar month: 48 hours; however, hours served underway in excess of 48 as a member of a submarine operational command staff during any of the immediately preceding five calendar months and not already used to qualify for incentive pay may be applied to satisfy the underway time requirements for the current month."

With the following committee amendments:

On page 1, line 5, '"(a)' should be changed to '"(A)'. On page 2, line 2, 'month"' should be changed to 'month;"'.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FAVORING ACTIVE PARTICIPATION BY FEDERAL AGENCIES IN THE NINTH INTERNATIONAL CONGRESS ON HIGH SPEED PHOTOGRAPHY

The Clerk called the concurrent resolution (H. Con. Res. 178) to express the sense of Congress on participation in the Ninth International Congress on High Speed Photography, to be held in Denver, Colo., in August 1970.

The SPEAKER. Is there objection to the present consideration of the concurrent resolution?

There was no objection.

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent that a similar Senate concurrent resolution (S. Con. Res. 12) be considered in lieu of the House concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. HALL. Mr. Speaker, reserving the right to object, I will ask the gentleman if this is an identical concurrent resolution to House Concurrent Resolution 178.

Mr. ROYBAL. If the gentleman will yield, it is exactly the same.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There being no objection, the Clerk read the Senate joint resolution, as follows:

S. CON. RES. 12

Whereas high-speed photographic techniques can magnify the time scale of scientific phenomena revealing parameters for research, engineering, and testing that are extremely important to every nation; and

Whereas the First and Fifth International Congresses on High Speed Photography were held in the United States of America, as organized and conducted by the Society of Motion Picture and Television Engineers; and

Whereas the Fifth International Congress on High Speed Photography in 1960 was supported by the Federal Government, as expressed in the S. Con. Res. 75 in 1959; and

Whereas other meetings were held in Paris, London, Cologne, The Hague, Zurich, and Stockholm, and in each instance these meeting have received the recognition and the support of the governments of the respective host countries; and

Whereas with each meeting the International Congress on High Speed Photography

has grown in prestige and stature, and attracts more countries in a continuing growth pattern; and

Whereas the importance of high-speed photography is reflected in nearly all of the physical sciences, including medical, biological, space, and many other fields; and

Whereas the Society of Motion Picture and Television Engineers is once again sponsoring the International Congress on High Speed Photography in Denver, Colorado, in August 1970 and is desirous of representing the United States of America as the host country in the best possible light; and

Whereas the Congress is fully appreciative of the importance of assuring this international scientific meeting is conducted in a manner which will bring credit and enhance prestige to the United States of America; and

Whereas it is the belief of the Congress that—

(1) the democratic environment of the free world is the best environment for the achievement in science; and

(2) scientists and engineers have special advantages and opportunities to assist in achieving international understanding since the laws and concepts of science cross all national and ideological boundaries; and

(3) high-speed photography is a universal tool in science, important to nearly all sciences internationally, and the International Congress on High Speed Photography is an excellent means of disseminating the advances in technology; and

Whereas the Congress is interested in (1) promoting international understanding and good will; (2) enhancing the excellence of American science, both basic and applied; and (3) furthering international cooperation in science and technology by creating the necessary climate for effective interchange of ideas: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that all interested agencies of the Federal Government should participate actively to the greatest practicable extent in the Ninth International Congress on High Speed Photography to be held in Denver, Colorado, in August 1970, under the sponsorship of the Society of Motion Picture and Television Engineers.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

A similar House concurrent resolution (H. Con. Res. 178) was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

DEPARTMENT OF DEFENSE PURCHASE OF CALIFORNIA TABLE GRAPES

Mr. RYAN. Mr. Speaker, today I am reintroducing my bill, which is cosponsored by 10 of my colleagues, to forbid the Department of Defense from purchasing California table grapes.

Since 1965, the United Farm Workers of California have been attempting to obtain recognition for collective bargaining purposes. This effort has been supported by a national boycott of California table grapes.

In 1965, the Defense Department was the 17th largest purchaser of California table grapes; in 1968, it was the third largest purchaser.

Last February I formally called upon the Secretary of Defense to cease buying California table grapes. This should be merely an administrative matter; no legislation should be necessary. But, since the Defense Department insists upon purchasing the grapes, legislation is necessary.

By purchasing California grapes, the Defense Department, an agency of the U.S. Government, is lending its power to efforts by the grape growers to break the strike.

The Defense Department has continued to increase its purchase of California grapes. In fiscal year 1966, the Department bought 7.5 million pounds. In fiscal year 1969 it purchased 10.42 million pounds. The cost increased from $1.04 million in fiscal year 1966 to $1.7 million in fiscal year 1969.

There has also been a large increase in grape shipments to Vietnam. In fiscal year 1967, 468,000 pounds were shipped to Vietnam. In fiscal year 1969, the amount of grapes shipped to Vietnam increased to 2.1 million pounds. However, at the same time, troop strength in Vietnam rose from 392,000 to 539,000 men. The troop figure increase is about one-third higher in 1969 than in 1967, but the grape shipment increase, for the same period of time, is about five times higher.

Mr. Speaker, I again urge the Department of Defense to discontinue buying California table grapes as long as the national boycott is in progress and until the strike is settled. And I urge my colleagues to support this legislation as well as the amendment to accomplish this purpose which I intend to offer when the Department of Defense appropriations bill is brought to the floor of the House.

The following Members of the House are cosponsoring the bill: Mr. BINGHAM, Mr. BROWN of California, Mr. BURTON of California, Mrs. CHISHOLM, Mr. CONYERS, Mr. EDWARDS of California, Mr. FARBSTEIN, Mr. ROSENTHAL, Mr. ROYBAL, and Mr. SCHEUER.

THE PURCHASE OF GRAPES BY THE DEFENSE DEPARTMENT AS COMPARED TO THE MAYOR'S ELECTION IN NEW YORK CITY

(Mr. HAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYS. Mr. Speaker, I notice in the paper that the gentleman from New York (Mr. WILLIAM FITTS RYAN) had endorsed the candidacy—I do not know what party he is running on, certainly not Democratic or Republican—Mr. Lindsay for mayor. I would have thought he could not have gotten elected unless the gentleman from New York was up there helping him today. But, apparently, the gentleman from New York (Mr. RYAN) chose grapes above Lindsay and I think that is a proper priority. I think even one grape would be better than Lindsay.

BANNING THE USE OF DDT

(Mr. OBEY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. OBEY. Mr. Speaker, 2 weeks ago the Secretary of House Education and Welfare banned the use of cyclamates because scientific tests revealed the presence of malignant tumors in laboratory animals exposed to strong dose levels of cyclamates.

Today 20 Members of Congress have joined me in asking President Nixon to issue an Executive order or directive banning the use of DDT for the same reasons.

First. As far back as 1947 the Food and Drug Administration found increased incidences of liver tumors in rats which were fed DDT.

Second. On May 1 of this year the National Cancer Institute reported that DDT added to the diet of mice quadrupled the frequency of tumors of the liver, lungs, and lymphoid organs.

Third. Hungarian scientists reported similar findings concerning the relationship of DDT and the development of tumors and leukemia.

Fourth. A recent university of Miami medical school study revealed that the bodies of persons who died of cancer contained more than twice the DDT concentration as persons who died of accidental causes.

Fifth. We know the DDT concentration in mother's milk has been found to be more than twice as great as the concentration permitted in cow's milk sold for public consumption.

Czechoslovakia, Sweden, and Denmark no longer allow the use of DDT. The administration banned cyclamates because evidence was present that they might cause cancer. We are asking that except in emergency situations, DDT be banned for the same reasons.

The letter follows:

NOVEMBER 3, 1969.

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

MR. PRESIDENT: On April 21, 1969, Health, Education, and Welfare Secretary Robert Finch declared that "the health of our citizens is properly and first concern of this Department." Citing his "increasingly concerned" attitude toward pesticide pollution, the Secretary said, "it is time to question the continued use of persistent pesticides from our environment. . . ." At that time he appointed a Commission on Pesticides to study "environmental pollution and its consequent risks to the health of our citizens." This Commission was to make a report and submit suggestions for action within six months.

Last week concern for the health of our citizens prompted Secretary Finch to announce that cyclamates would henceforth be removed from the list of substances generally recognized as safe for use in foods. The Secretary's action was in response to findings that "the presence of malignant bladded tumors (were found in laboratory animals) after these animals had been subjected to strong dose levels of cyclamates for long periods."

We believe recent evidence makes it clear that persistent pesticides, including DDT, are as potentially damaging to human health as cyclamates. In light of Secretary Finch's action last week and recognizing the fact that his Commission on Pesticides has not publicly come forth with any evidence to the contrary, we hereby urge you to ban the use of DDT except in cases where it may be absolutely necessary to protect the public health and safety.

Available scientific findings certainly suggest that DDT may have cancer-causing potential, and is, therefore, a potential risk to the public health. Some of these findings include the following:

1. As far back as 1947 a study by the Food and Drug Administration showed that when DDT was fed to rats there was an increased incidence of liver tumors.

2. Hungarian scientists recently examined more than 1,000 mice from five generations after adding three parts per million DDT to their diets. They found that 28% of the mice getting DDT developed tumors, while only 3.8% of the mice on clean food had tumors. Leukemia appeared in 12.4% of the DDT mice, but only 2.5% of the others.

3. On May 1, 1969, the National Cancer Institute reported that DDT added to the diet of mice quadrupled the frequency of tumors of the liver, lungs, and lymphoid organs. According to that report, DDT was one of 11 compounds "clearly tumorigenic for the strains of mice used at the high dose levels which were administered". Similar evidence was found by scientists at the Rowsell Park Memorial Institute in Buffalo, New York. Certainly this is no less compelling evidence regarding the dangers of DDT than that which caused Secretary Finch to act against cyclamates.

4. In studies done at the University of Miami School of Medicine, it was found that the human victims of cancer had more than twice as much DDT in their fat as did victims of accidental death. We do not know if the increased amount of pesticides caused the cancer of these victims, or if there was any relationship between the two, but this is something which can be ignored only at our own risk.

5. Researchers at the University of Wisconsin, among other places, have found indications that pesticides are a genetic hazard to man, capable of producing mutations. And, as one scientist at the University of California recently stated: "No responsible persons could now get up here and say that this constant nibbling at our steroids (sex hormones) is without any physiological effect. It would be irresponsible."

6. We know that DDT is passed on to the human fetus via the mother's placenta. We know, too, that the situation has become so serious that the DDT concentration in mothers' milk has been found to be more than twice as great as the concentration permitted in cows milk which is sold for public consumption.

Czechoslovakia, Sweden and Denmark no longer allow the use of DDT. Arizona, California, and Michigan have banned its use. We believe it is time that DDT be banned in every state, consistent with measures which may be needed to protect the public health and safety.

Because a number of government agencies deal with DDT—including the Department of Agriculture, which registers it for use, the Food and Drug Administration which sets tolerance levels for food, the Interior Department, which conducts research on the hazards it has to fish and wildlife, and the Public Health Service, which does research on the hazards associated with the use of pesticides—it would be difficult for just one agency to act on this matter.

Therefore, we strongly urge that you issue an executive order or directive banning the use of DDT except in instances where it is absolutely required, and that all government agencies take whatever action is required to fulfill the intent of this order.

Sincerely yours,

David R. Obey, Marvin Esch, Daniel Button, Joseph Karth, Arnold Olsen, Don Edwards, Clarence Long, Jonathan Bingham, William Clay, Thomas Rees, George Brown, Jr., Jerome Waldie, James Kee, Edward Koch, Richard McCarthy, Abner Mikva, Banjamin Rosenthal, James Scheuer, Leonard Farbstein, Bertram Podell, William Barrett, Members of Congress.

CBW AND NATIONAL SECURITY

(Mr. DELLENBACK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DELLENBACK. Mr. Speaker, it is my privilege as chairman of an informal study group to announce completion of an intensive examination of the strategic and tactical implications of chemical and biological weapons. A study of this length cannot exhaust all the implications of chemical and biological warfare, but the sponsors of the study group paper, along with 12 other Members of Congress who have become associated with this examination, believe the document contains perspectives and recommendations worthy of consideration by this Congress and the administration.

At this time, I would like to cite three other Members who joined with me as sponsors of this study group. They are CHARLES A. MOSHER of Ohio, HOWARD W. ROBISON of New York, and FRED SCHWENGEL of Iowa.

The following Members of Congress have joined the study group in encouraging, through the release of this paper, a reexamination of the strategic and tactical purposes served by chemical and biological weapons: MARVIN L. ESCH of Michigan, PETER H. B. FRELINGHUYSEN of New Jersey, GILBERT GUDE of Maryland, FRANK HORTON of New York, PAUL MCCLOSKEY of California, JOSEPH M. MCDADE of Pennsylvania, F. BRADFORD MORSE of Massachusetts, OGDEN R. REID of New York, PHILIP E. RUPPE of Michigan, HERMAN T. SCHNEEBELI of Pennsylvania, ROBERT T. STAFFORD of Vermont, and CHARLES W. WHALEN, JR. of Ohio.

CBW AND NATIONAL SECURITY

INTRODUCTION

The recent concern about safety procedures in the handling of chemical and biological weapons has caused us to re-examine the purposes for which we have these weapons. Our effort has necessarily involved analysis of the avantages and disadvantages of CBW in each of the situations our country faces or might face. Accordingly, we have considered chemicals and biologics as deterrents to all-out war and as tactical weapons in limited wars. It stands to reason that the judgment of the Congress concerning the future of these weapons must be based on this kind of analysis.

We need to determine whether these weapons are valuable additions to our already impressive arsenal of conventional and nuclear weapons. It is not justifiable to continue developing, producing and testing chemical and biological weapons simply because we can develop safe testing and storage procedures for them. Also, we cannot logically accept the rationale that we need chemical and biological weapons simply because some other country is engaged in CBW production. Similarly, it is not enough to say that they enhance "flexibility": one must analyze their specific advantages. Only weapons which add a positive measure to our overall national security deserve support.

As a result of our inquiry, we question whether chemical and biological weapons add significantly to our security. The risks we run by using and maintaining secret stockpiles seem to outweigh the dubious advantages offered by these weapons.

On this page and the next page, we will present a few of our concerns, highlighting rationales which are elaborated in the main body of the paper. Here we will also offer some recommendations.

As deterrents to all-out war, chemical weapons are neither more cost-effective nor certain than our nuclear deterrent. Biological weapons are doubly uncertain as mass killers. On the one hand, their effectiveness can be blunted by extreme weather conditions or unpredictable biological reactions. On the other hand, a successful attack by us could initiate an epidemic that might spread to infect our own population. When a weapon is potentially dangerous to both the attacker and the attacked, retaliatory threats lack sufficient credibility.

Although many have accepted the notion that CB weaponry is humane, we are dubious. Many of these weapons are naturally inhumane, while others which could theoretically be used to reduce war deaths have actually been used to increase them. Contrary to the assumption that weapons which have been secretly developed and tested for years will perform effectively in the field, many of them have not significantly improved our military position and many more cause severe ecological damage which may make them less acceptable than conventional weapons.

We suspect that virtually all CBW is highly escalatory in limited war. When we fight limited conflicts to avoid all-out war, chemical and biological weapons may push us toward total war. When we are willing to escalate, chemicals and biologics are very likely at least as escalatory as tactical nuclear devices.

Finally, we find that in the field of CBW there appear to be unique opportunities to disarm voluntarily or on a negotiated basis. There is genuine international interest in reaching a negotiated settlement on CBW, yet it is doubtful that the elimination of our chemical and biological stockpiles would result in significant military loss.

We are cognizant of the dangers associated either with using these weapons or secretly continuing to produce and stockpile them. There are already indications that our use of chemicals causes serious and permanent damage. Yet, even this damage is small when compared to the unpredictable misery that a full-scale biological attack might initiate or the total war that a chemical attack might provoke during a limited conflict. By possessing these weapons we increase the likelihood of use. In addition, we risk an international incident when an unexplained epidemic provokes charges of a secret biological attack. Finally, these uncertain weapons have a destabilizing effect on relations between adversaries because they make rational calculations difficult.

Because the logic of this paper suggests that the disadvantages of CBW outweigh their marginal advantages and because it takes into account both the evils and the alleged benefits of CB weaponry, we recommend careful consideration of the following actions:

(1) Eliminating all stockpiles of chemical and biological weapons, including any low-level chemicals designed for military use. This does not include riot control agents used for crowd control in the U.S.

(2) Publicizing the results of future research in the field of CBW.

(3) Encouraging international agreement on the prohibition of chemical and biological production and usage.

(4) Ratification by the U.S. of the 1925 Geneva Protocol.

(5) Declaring tnat the United States will not use such weapons but will respond to their use by adversaries with appropriate conventional or nuclear force.

I. THE WEAPONS

The term "Chemical and Biological Warfare" is a misleading one. It is not a form of warfare but rather a conglomeration of

weapons which must be incorporated into the military strategies and doctrines which have already been developed to maintain our defense posture. The sweep of the phrase masks the diversity of our silent arsenal.

The purpose of this study is to outline the role that chemical and biological agents could play in our overall defense strategy. Where possible, we have attempted to evaluate the merits of the systems as an alternative to those weapons already in use. We also consider briefly the possibility of a negotiated agreement on the production of chemical and biological agents.

It is important that chemical and biological agents be constantly regarded as alternative weapon systems. If objective evaluation indicates that they do not prove better than present armaments, there can be no justification for adding them to our arsenal. Different criteria are unsatisfactory. Maintaining the primacy of flexibility is an imprecise position. If two weapons are of unequal value, certainly only the better one should be deployed. If they are equal, joint deployment is unnecessarily wasteful.

Arguing that the U.S. must develop a weapon because an adversary is doing so is not logically adequate; it is a rationalization of advocates. Keeping up with the Joneses in weapons development is useful only when our own security requires that enemy systems be duplicated. This reasoning was relevant during the recent ABM debate. We did not need an ABM because the Soviets had one. We needed it only if our deterrent force would be vulnerable without it. Likewise, American stockpiles of CBW are not justifiable merely because of Soviet initiatives.

A. The differences between chemical and biologics

There are several different categories of possible chemical and biological weapons. Toxins, which are produced by biological organism but cannot themselves reproduce, have been classed with chemical agents in this study as they were in the UN Report on CBW. (See appendix). While there are significant differences between categories, the basic characteristics of chemical agents are different enough from those of biological weapons that general distinctions between the two classes are both possible and helpful. Biological agents are living organisms which reproduce, chemical weapons are not. It is this basic difference which accounts for the major variations between them.

1. Extent of Effects

Because they are alive, biological agents can pose a danger for a long time and affect a wide area as they reproduce. Chemical agents are effective for only a relatively short time and the area they affect is determined solely by the size of the initial attack and the weather conditions in the strike zone. Thus, when an attack must be controlled geographically, chemical agents are preferable to their biological counterparts. Yet when a general attack is called for, biological weapons are more relevant.

2. Speed

Speed is often absolutely necessary in a military engagement. With the exception of defoliants which require several days to achieve maximum results, chemical weapons can act immediately or within a few hours. In comparison, biological agents are extremely slow. The quickest take at least a day to act and some have incubation periods of three weeks.

3. Duration

The two systems also differ markedly in their duration of effect. The living organisms of a biological weapon may lie dormant for years or centuries before finally infecting humans. Decontamination of infectious areas is difficult at best and impractical for large areas. Chemicals may evaporate relatively soon after an attack, but under certain environmental conditions or after repeated use, areas may remain contaminated for months.

4. Intensity

Some chemical agents are short-term in capacitants, but the most dangerous are those which are designed to kill quickly. Even those previously characterized as temporary have been found to have lingering side-effects such as permanent damage to the eyes or lungs. Conversely, although biological weapons are usually considered lethal, some organisms have been developed which cause illness for a while but make eventual recovery possible.

B. Military characteristics

To be useful additions to our military arsenal, these weapons should meet a number of criteria. They should be easily delivered, cheaply produced, difficult to defend against, effective under all weather conditions and reasonably controllable. Chemical and biological agents measure up to some of these standards but fall short of others.

1. Delivery

Chemical agents can be delivered in almost any form. They can be dispersed in aerosol sprays, hand grenades or small rockets. In addition, aerial spraying as well as bomb and missile attacks can be used. These systems can also deliver biological weapons, although short-range delivery vehicles are dangerous since the disease could easily return to the attacking troops. A unique delivery method for biological weapons is sabotage. A fifth-column movement is virtually undetectable; and a small amount of infectious biological organisms could quickly spread in the atmosphere or through a water supply to infect population centers. Yet for a large-scale attack the most probable delivery method would be an aerial spraying from a missile or airplane.

2. Production

Both chemicals and biologics can be cheaply and quickly produced in massive quantities with available laboratory and industrial equipment.

3. Defensibility

Defenses against the agents can be directed against the delivery systems or the agents themselves. Luck seems to be an essential part of the defense against sabotage attempts, but defense already developed against bombers and missiles should be equally effective whether CBW or nuclear warfare is being attempted.

Some chemical and biologcal agents are susceptible to medical treatment. But this treatment must be swift and certain. Because of the necessity for speed, the agent might be incorrectly identified. The wrong antidote for a chemical attack could kill the intended victim; a disease will continue unchecked if the wrong biological antibiotic is prescribed.

Of course, protective measures are possible only after an attack is detected. Nerve gas is odorless, colorless and tasteless. Unless troops correctly identified an incoming rocket as a chemical one before impact, one-third of them could die before they had a chance to don gas masks. Thousands of citizens could be fatally infected by a saboteur's biological attack before officials learned of the deadly contamination. Thus, defense against surprise attacks is extremely difficult and should be largely discounted when setting policy.

4. Weather Dependence

An unfortunate change in weather conditions can greatly reduce the effectiveness of both types of weapons when they are dispersed in aerosols or impact explosion devices. Because of this tenuous dependence on the weather, they are not reliable military aids.

5. Controllability

On the other hand, even when weather conditions are favorable an effective attack cannot be easily controlled. In some cases the area affected is indeterminable. In others, the intended victims are not the only victims. There is a constant danger that lingering effects will wreak havoc in the area for years after the war ends.

When chemical weapons affect a region, they may affect all men and animals in the area. Herbicides can be confined to a specific area. But while they are aimed only at plant life, they may also directly affect the local human and animal populations.

Most biological agents infect only one species, but the infection can spread endlessly, affecting areas far from the inital attack which may not be involved in the war.

Perhaps the most frightening dimension of these weapons is their long-term effects. Even seemingly harmless defoliants now being employed in tactical situations can affect the overall ecological balance of the area and promote extinction of those species which depend on the foliage for nourishment. Plant diseases may make critical inroads into the food supplies of already starving nations. Biological agents could linger in an area and rekindle an epidemic long after treaties were signed and enmity had ceased. They could renew the pangs of war when only historians remember why the war began.

C. Military missions

Because of the distinctions between the two types of weapons, their military missions are quite different. Chemical agents are considered tactical weapons, to be used in limited engagements. They act quickly and remain in a relatively limited area under favorable weather conditions. They can therefore be incorporated into larger battle plans.

Lethal biological weapons are reserved for all-out conflicts. Once they infect a population, an epidemic of unforeseeable proportions is possible. No battlefield operation calls for such devastation.

II. THE STRATEGY

Knowledge of the military characteristics of these weapons makes possible an examination of their implications for national security.

Our national security depends both on an ability to deter attack and on a capacity to defend against one should deterrence fail. Defense strategy is a purely military science; whereas our deterrence strategy determines our diplomatic posture and public image throughout the world. While the two concepts are related, they are not the same. Many policy discussions suffer because they assume that whatever is good for defense is of equal benefit to deterrence. This is not necessarily so. Weapons which make military victory more probable may also make victory necessary by making war more likely.

National policy makers have relied upon two basic theories of deterrence and defense: counterforce and finite deterrence.

A. Counterforce

Counterforce strategy, as the term suggests, is directed at the military force of the enemy. It hopes to disarm the enemy quickly by destroying his weapons. If it is successful the enemy will be forced to quietly surrender, accept a stalemate or face extinction. The strategy focuses on military targets, not population centers.

CBW does not contribute to our counterforce posture. In an allout war, these weapons cannot stop incoming missiles or blunt their destructiveness. They cannot ground planes or destroy missiles in their silos. Their primary function would be to attack population centers.

Even if it were assumed that we could become involved in a war which prized strikes against munitions factories during a protracted test of industrial strength, CBW would not be significantly better than conventional tactics. Biological attacks would be difficult to pinpoint and the general population could be afflicted. Chemical agents might be controlled, but they would kill people

while leaving the enemy's industrial capacity intact. In both cases, new workers could resume production and repeated strikes would be necessary. Conventional sorties which destroyed the factories themselves would be far preferable in such an unlikely war situation.

B. Finite deterrence

The strategy of finite deterrence focuses on population attacks and is more suitable for CBW. This strategy attempts to prevent war by making victory so costly or so unlikely that attack is an enemy's least acceptable option. The main focus is on all-out war. We attempt to discourage aggression by threatening retaliation against population centers which would make victory too costly. Presumably any opponent perceives a level of damage which would be unacceptable when set against the gains expected from victory. Since this damage threshold is measurable and thus finite, the retaliation we threaten is finite. Accordingly our posture is termed one of finite deterrence. Once this damage threshold is reached, there is no reason to exceed it. The enemy will be deterred when the minimum threshold damage is assured. Threats of more damage will not produce more deterrence.

An essential element is this strategy is flexibility. The level of damage threatened must be correlated with the attacker's stance. Too little will not deter. Too much in a limited conflict will be disproportionate and thus either irresponsible or unbelievable.

When completely articulated, the theory attempts to respond to aggression at whatever level it is offered with a two-fold purpose in mind. First, enemy victory must be forestalled. Second, conflicts must be decided at the lowest possible level of violence. Consequently, there are three major facets to finite deterrence strategy: minimum deterrence, which makes all-out war politically and morally unacceptable; limited war, which seeks to counter all other forms of force or blackmail; and arms control, which attempts to keep tensions low by keeping force levels low and balanced between adversaries.

Minimum deterrence seeks to maintain an invulnerable strike force capable of inflicting unacceptable losses on the enemy by attacking his population. Of course this threat is only credible if it is used to deter a minor land probe since it would immediately escalate a local conflict into a world-wide conflagration.

The technique of limited war was incorporated to react to localized threats which do not warrant total war. If our limited war capabilities are great, we should be able to deter attacks in any form by threatening an appropriate level of violence.

To deter attacks and keep the attacks that cannot be deterred as small as possible, arms control is a major goal of any strategy of finite deterrence. Arms control also aids deterrence by reducing international tensions which increase the chances of war. While complete disarmament is not feasible, at least for the present, some arms control is a reasonable and highly desirable goal. Another section of this paper will consider the importance of including CBW in such controls.

1. Minimum Deterrence

(a) Civil defense possibilities

Since minimum deterrence threatens to strike a terrible blow to the civilian population of an enemy, civil defense measures might reduce casualties and defeat the purpose of the deterrence measures. However, as a practical matter, civil defense cannot be relied upon to nullify the threat of CBW. Detection of a covert attack is difficult if not impossible. The measures required to protect a population even if an attack is anticipated or identified are highly impractical. Pressurized shelters with air filters would be required to prevent exposure to a continued buildup of harmful agents. In addition, sophisticated laboratory equipment and biological experts would be needed in every shelter to identify and treat diseases before a general epidemic struck underground. Thus, civil defense should not give a victim solace or an attacker pause. The success of a CBW attack will not be significantly diminished by civil defense measures taken against it.

Civil defense against nuclear attacks aimed at population centers cannot avoid millions of deaths in the immediate blast area, even though some civilians might survive deadly fallout if adequate shelters were available. Thus, nuclear weapons will remain a credible deterrent despite attempts to develop civil defense systems.

Because all three weapons can elude or overwhelm civil defense systems, population vulnerability is high regardless of which type of attack is considered. Yet, aside from civil defense considerations, there are significant differences in the application of deterrence strategy to chemical, biological and nuclear weapons.

(b) CBW as a deterrent

Lethal chemical weapons such as nerve gas would probably require more delivery vehicles than nuclear weapons to achieve the same unacceptable level of damage. Since their range is determined by the wind direction and velocity, several gas missiles would be necessary to inflict damage equal to that of a single nuclear warhead. If delivery costs were an important factor, nuclear strikes would be more attractive since fewer missiles would be necessary. If assured destruction were the aim, nuclear weapons would again be chosen, since wind and weather conditions could blunt a chemical strike but leave a nuclear blast unaffected.

Yet chemicals might still be retained as a deterrent force. They could be responsible for avoiding a purely chemical attack. A special case has been made for retaining a substantial lethal stockpile in Western Europe to deter a major conventional and chemical onslaught from the East. It is feared that if the U.S. were to abandon its chemical stockpiles, the East would seize upon a tempting opportunity to use lethal chemicals with great success.

Some fear that the West would be faced with an unfortunate triad of options if it did not retain chemicals. NATO might be forced to retreat while suffering heavy casualties from persistent gas attacks. It might equip its troops with protective clothing while ceding a mobility advantage to the East which could be decisive. Finally, it might respond with tactical nuclear weapons to exact a casualty toll from the East similar to the losses its own forces suffered from gas attacks.

It is argued that a substantial arsenal of lethal chemicals could avoid this difficulty, since gas responses to gas attacks would force the East to don protective clothing and make mobility difficult for both sides for the duration of the war. The East might be successfully deterred from using gas if it realized that the West was prepared to respond in kind and neutralize its short-lived tactical advantage.

Yet this scenario is not necessarily a convincing case for a lethal chemical arsenal. It obviously does not weigh the risks of possession which we outline below. In addition, a large-scale conventional war in central Europe may not be possible. Escalation to tactical nuclear weapons or expansion of the war to homelands may be virtually automatic. Certainly it is difficult to imagine a war in Europe which began with lethal chemicals on one or both sides and did not quickly escalate to other weapons and other battlefields.

Yet the most important distinction which must be made in reviewing this scenario is one between deterrence and defense. While some may flinch at the thought of actually using tactical nuclear weapons when another course is open, it is not clear that the threat of nuclear retaliation would not be effective in deterring chemical warfare in Europe. If tactical nuclear devices can deter a chemical attack, the issue of actual retaliation becomes moot.

Finally, actual defense with chemical weapons may not be significantly better than with nuclear devices. There are no meaningful civil defense measures against either weapon. Both sides would have to assume that tactical nuclear weapons might be used against them and disperse their forces accordingly. This would mean that even strikes at clearly identified military targets with either weapon would involve substantial civilian and military losses. Thus, the different intensity between lethal chemical attacks and low-level nuclear blasts might be small and the case for chemical responses to chemical attacks would be marginal.

Biological weapons have also been justified as a deterrent force. There again is no practical civil defense. The delivery systems are as invulnerable as nuclear vehicles, and it seems reasonable to assume that both superpowers will remain vulnerable to a full-scale missile attack for the foreseeable future. A fifth column of saboteurs should remain potent in spite of unforeseen advances in missile and bomber defenses. Nevertheless, biological attacks are not a successful deterrent threat.

Effective deterrence must result from a credible threat of assured destruction judged unacceptable by a potential aggressor. Yet it is reasonable to conclude biological warfare neither assures destruction nor allows for a credible threat.

Even after a biological strike began, the extent of the damage would be unknown. Aerosols would be the most likely delivery method for a large-scale biological attack. Yet reliance on them means that extreme weather conditions might kill the organisms before they had an opportunity to infect the population. Certainly it would be difficult for an attacked nation to wait patiently for perfect weather conditions for retaliation. Consequently, the possibility of a complete failure is a constant danger in biological warfare and the requisite of assured destruction is lacking.

The credibility of a biological threat is undermined by the frightening prospect of a succesful attack—one which initiates an epidemic. The disease could be uncheckable. The plague would honor no natural or national boundaries. Once the infection was identified, a terrified population would scurry in all directions to avoid contamination. Yet they themselves would be the carriers who would transform a localized attack into an international tragedy.

Even laboratories with controlled environments and strict safety precautions have been unable to completely avoid infection by these lethal agents. Only strict quarantine procedures and a fair amount of luck have prevented several research accidents from becoming general epidemics.

Uncontrollable biological weapons could endanger their user; they might return to infect his population. The unbridled infection he had unleashed could return to destroy the attacker as well as the attacked. Even a country which was confident that it possessed a secret antibiotic could not launch such an attack. Living organisms often change their characteristics as the result of a mutation. Hardy mutant strains could continue to spread disease after the administration of antibiotics which would have neutralized the original disease strain but which proved ineffective against this new breed of killers.

Of course any threat to exterminate millions of people is incredible. But one is more

incredulous when posed with a threat of biological destruction than when a nuclear threat is maintained. By developing "clean" bombs we have attempted to minimize the residual effects.

Our own population might suffer if we retaliated. Consequently, population losses in the U.S. would have to result from a decision by the enemy to launch a second salvo of missiles targeted on our cities. There is a very real possibility that an enemy leader would pause under the stress of a nuclear exchange and accept defeat before issuing a death warrant for another score of megadeaths. Biological weapons do not afford this opportunity to avoid mass destruction in both the attacking and attacked nation; a single disease can spread over both populations without waiting for a second decision from an opposing leader. Thus, while a nuclear retaliation makes national suicide a possibility because a devastated foe might decide to slaughter his enemy, a biological attack makes self-destruction dependent both on the course of an uncontrollable epidemic, and upon the unpredictable decision of an adversary.

Thus it seems that our overall deterrence posture would not be significantly enhanced by the threat of a biological response. The brinksmanship inherent in modern day aggression would be buoyed by the hope that retaliation would be unsuccessful. In addition, the threat of a biological response loses its credibility as the likelihood of success increases. An effective attack carries with it the fearsome danger of a global epidemic which could sweep all before it, friend and foe alike. Accordingly, the threat of a biological response may be either the threat of no response or of retaliation so costly to both sides that it might not be believed and thus not heeded.

Nuclear weapons are significantly better than biological ones for deterrence purposes. They are just as fearsome and more certain and controllable. Sole reliance on nuclear threats should preserve a credible deterrent for the U.S. Adding a biological menace would not significantly improve that deterrent.

Successful biological attacks are at least as humanly destructive as nuclear strikes. Thus, there is no reason to prefer a biological response in hopes of avoiding all-out nuclear war. Both deal death in massive proportions.

(c) The vicious response

Relying on biological weapons as a vicious military response to an all-out attack has little justification. A biological reaction to either a biological or nuclear strike might be extremely damaging and yet less effective than a nuclear response.

We indicated earlier that the incubation period for lethal organisms is from one day to three weeks. This incubation period begins only after a victim has contracted the disease. Thus, while an attacker is busily destroying its enemy's wealth and population, the beleaguered victims must wait patiently for their deadly infection to fester. In the meantime, they must accept unmerciful punishment. All the while, the original attacker might feel that he could fight continuously against an enemy that was unable or unwilling to retaliate. Such a confident adversary could be expected to increase the intensity of his attacks as long as he felt he was doing so with impunity.

In contrast, a nuclear response would be quick, calculable and highly damaging. An attacker would be forced to reassess his position against a determined foe willing to fight rather than surrender.

2. Limited War

The term limited war implies that both the weapons used and the area engaged are limited. Such conflicts are entered when the objective is worth all-out war, but when it might be achieved at lower costs in a limited conflict. In other situations, limited wars are fought when the stakes are high enough to justify armed action, but too low to justify total war.

Certainly no country is willing to rattle its nuclear sabres during every international incident. Some areas are just not worth a nuclear war. Yet they may be valuable to a country—valuable enough for a limited war. Other areas may be worth a nuclear war, but victory might be achieved without one if a flexible conventional force were available. To avoid being muscle-bound in most international crisis situations, the nuclear powers have developed a capability and theoretical framework for waging limited war.

When a nation is willing to risk all-out war to achieve its goal, there are no holds barred in the limited phase of the war. Of course, if victory can be won without resorting to nuclear weapons, none will be used. But the enemy is kept constantly aware that its opponent is taunting it up the nuclear ladder. There must be no doubt about the attacker's ultimate resolve.

However, when the stakes are not high enough to justify all-out war, the opponent must be advised that the war will be kept limited. The attacker is willing to accept defeat rather than escalate to nuclear weapons in search of victory. If there is any doubt on the part of the opponent, there exists the danger that he will escalate the conflict of his own accord in an attempt to show his resolve and perhaps win the war quickly.

Therefore, there must be implicit limits placed on such a war so that both sides clearly understand that they are fighting a truly limited conflict—not one that could reach the unlimited stage. Usually geographic and weapons limitations are self-imposed by both sides as evidence of their good faith. There are no logical reasons for these barriers, since there are no clear logical demarcations between limited and total wars. They are merely different levels of conflict in a continuous scale of violence. The value of the barriers lies in the assurance they provide to an opponent that he need not fear all-out attacks during this particular war. Once these restrictions are decided upon and recognized by both sides, it is clearly of prime importance that they not be abandoned by either side in quest of a small military advantage, lest all barriers fall and all-out war actually result.

There are three main reasons advanced for including chemical and biological weapons in our limited war arsenal. Advocates claim they are: first, more humane than other conventional weapons; second, effective in fulfilling military missions; and third, high intensity responses to enemy action which do not involve a significant danger of nuclear escalation.

(a) Humane weapons

Some proponents of chemical and biological warfare dream of "wars without death." They claim that military objectives can be achieved without the necessity of killing the enemy. They envision sleeping armies, soon to wake captives of a merciful opponent.

For some chemical and biological weapons, this argument is clearly irrelevant. Nerve gas and deadly plagues are no more humane than the conventional weapons they seek to replace or supplement. For other agents, previous military usage indicates that they have been used in conjunction with tactics which seek to kill the enemy.

Biological agents aimed at crops or animal life are used to deprive the enemy of his food supply. Yet any starvation tactics hit the army slowly—after the rest of the population has suffered from malnutrition while the army commands scarce food reserves. The policy of starvation is inhumane as conceived and unconscionable as practiced, since it first hurts those most in need of food and only eventually cuts the rations of the enemy forces.

Biological agents which affect man are also inhumane. Mild forms of disease are not militarily useful because they do not sufficiently guarantee an incapacitated enemy to insure peaceful victory. The lethal agents are just as deadly as conventional weapons and they invariably affect civilians. Certainly, weapons which deal not only death but indiscriminate death cannot be considered humane.

Chemical agents have been developed and used to defoliate large areas identified as enemy strongholds or to destroy crops. Those which seek starvation are indeed inhumane. Those which defoliate enemy hiding places do not result in humane treatment either. Fields of fire and bombing targets are revealed as leaves slowly wither. An enemy caught in these areas cannot expect merciful treatment. Instead, he can fear unobstructed shelling and bombing raids. His death is made more likely because chemical weapons were used by his enemy.

There are both lethal and non-lethal chemical weapons which are used directly against men. Lethal agents, primarily nerve gases, are certainly not humane. In fact, there is less possibility of being merely wounded by nerve gases than by conventional weapons. Even a small dose of these gases can be fatal. Thus, mortality rates are increased when nerve gases are used.

Riot-control gases and harassing agents are not designed to be fatal. If administered in laboratory-prescribed doses they do not kill or permanently damage their victims. But in battlefield conditions, too much gas is usually preferred to too little and there are strong probabilities of permanent damage or even death if an "overdose" strikes an enemy.

Chemical weapons which are theoretically capable of achieving victory without bloodshed have frequently been used to increase enemy casualties. Although the gases themselves are not fatal, they are often employed in tactical situations when the enemy is concealed from conventional weapons. Chemicals are then used to drive the enemy from his hiding place so that he can easily be fired upon.

The inhumane deployment of these weapons during battlefield situations may not be more inhumane than the use of comparable conventional weapons. However, chemical and biological weapons can continue to be inhumane long after the battle is ended. The area may remain contaminated for days, years, perhaps centuries. No conventional weapon is likely to cause this much prolonged suffering. Weapons aimed at plant or animal life may cause serious ecological imbalance, break natural food chains and disrupt environmental stability. Biological agents could cause damage of this magnitude in wideranging areas. It is conceivable that entire species, perhaps even man, would move toward extinction after a large attack.

Theoreticians have not realized their visions of wars without death. As now employed, chemical and biological weapons are usually used to kill the enemy directly or indirectly. At times their use kills scores of noncombatants.

(b) Effective weapons

The most persuasive argument for military tacticians is that CBW is an effective weapons system. It does things better, quicker, cheaper or safer than alternative weapons. The crucial element in evaluating these claims is the definition of an effective weapon. Most chemical and biological agents can be successful in fulfilling a mission. But the additional damage they cause may make them ineffective in an overall analysis, since

an effective weapon should seek to maximize the chances of ultimate victory while minimizing the war's destructiveness.

There is no question that biological agents can be terribly efficient in destroying plant and animal life. Yet starvation may not be an effective addition to military tactics, since the armed forces would be the last to suffer from shortages. In some situations they might never suffer if they maintained supply lines with non-combatant allies.

But the more significant disadvantage to biological agents is their uncontrollability. The disease may return to destroy the attacker's food supplies. They may also spread to neighboring territories. Since military men, like most people, prefer to keep the number of enemies to a minimum, uncontrolled blight could be a severe setback. Neutral nations which helplessly witness their plant or animal life die might feel strong public pressure to avenge the attack as quickly as possible.

When human diseases are meted out to an enemy, the disadvantages are similar but more pronounced. Even a hypothetical army that could secretly innoculate its troops and stockpile a biological agent could not consider the agent an effective weapon. The disease could easily spread beyond the war zone and the pressures for retaliation by neutral nations would again be tremendous. The initial successes achieved by using the agents could be nullified when war was declared by the enraged nation accidently infected by the attacker. In addition, the attacking troops might be afflicted by the same disease when a mutant which proves immune to previous vaccines returns to plague them. Both of these possibilities make ultimate victory less likely. Either one makes a biological agent an ineffective military weapon.

The positive disadvantages of biological strikes must be considered in conjunction with their inherent unpredictability. As demonstrated previously, less than perfect weather conditions can quickly kill bacteria before they infect the enemy. A weapon which works only occasionally is probably worse than no weapon at all, since plans which assume effective results from its use may leave troops helpless if the weapon fails.

Chemical defoliants are effective in killing crops. The question is how effectve crop attacks are in defeating an enemy. Defoliants which seek to clear the countryside of enemy camouflage are eventually successful in denuding the area. Yet there is a real question about the military consequences of these sprayings. It takes several days for the chemicals to take effect. After they have, there is usually renewed growth in the area within a week. During this short period of defoliation, the enemy can avoid barren areas and move only through jungle that has not been affected. Persistent use can prolong the defoliation effects and perhaps even kill trees in the vicinity. Yet a militarily effective program would have to blanket a wide area while continuing to concede relatively concealed movement at night. When the advantages of this program are weighed against the significant disadvantages resulting to the soil, foliage and wildlife of the region, the effectiveness of the weapons is doubtful. Victory is not significantly enhanced while damage to the war zone is certainly intensified.

Defoliants have also been used to deny roadside cover to enemy ambushers. But it should be realized that clear roadbeds often merely widen the fire zone, thereby increasing the exposure of one's own troops as they seek shelter from attack.

Chemical agents aimed at enemy troops have varying degrees of effectiveness. Harrassing agents can be effective if the enemy is not equipped with masks. Usually these agents are used to force the enemy out of hiding into clear fields of fire or to prevent enemy pursuit or ambush when friendly troops are moving.

Lethal agents, particularly nerve gases, can be extremely efficient killers. Attempts have been made to develop warning and decontaminating devices to use in conjunction with masks as defenses against nerve gas. Yet present systems are costly, cumbersome and only partially effective. Observers estimate that troops fully equipped with protective devices would still suffer 30% casualties before they could react to a surprise attack.

(c) High intensity, nonescalatory weapons

(i) Completely limited war

The final and most crucial argument advanced in favor of the use of chemical and biological weapons is that they allow a high intensity response which does not escalate the conflict. Where the U.S. is involved in a limited war and has decided it will *not* resort to all-out war for victory, this justification is of prime importance. If this argument fails, the other two rationales offered for their use become moot. The danger resulting from escalation far outweighs the benefits which allegedly humane or efficient weapons offer.

When limited war is initiated because all-out war is not justified by the stakes of the conflict, all reasonable precautions must be exercised to insure that the war will remain limited. As we indicated earlier, the normal way of telling an opponent that the war will not be escalated is establishing arbitrary geographical and military boundaries for the conflict. Chemical and biological weapons probably transgress both bounds.

Lethal biological weapons, if successful, can kill as effectively as nuclear warheads. Thus the artificial restraints on the level of violence which are established in a truly limited war would be greatly exceeded. The shift to nuclear war would be a small one. It would be made because nuclear weapons were more reliable, not because they were necessarily more destructive.

In addition, the arbitrary geographical limits set might be unintentionally violated by any biological weapon. Sanctuaries relied upon by one side and honored by the other could well be infected by the attacking biologics. Moreover, the agents could spread to neighboring countries. This is an extremely frightening prospect for conflicts on the Sino-Soviet periphery, such as those in Korea or Vietnam. An uncontrolled epidemic might quickly engage an otherwise uninvolved superpower in all-out war.

Lethal chemical weapons probably also pose an unacceptable risk of escalation by exceeding artificial restrictions on the type of weapon used, since successful nerve gas attacks might kill as many enemy troops as a nuclear blast.

Thus, both biological weapons and lethal chemicals could break delicate barriers which are relied upon to distinguish limited war from all-out war. But even chemical agents which are not designed to kill the enemy may be dangerously escalatory and thus undesirable. This danger is a consequence of the psychological overtones associated with CBW. As we indicated at the beginning of this study, the term "chemical and biological warfare" masks a wide variety of weapons included in it. Since the entire category is normally eliminated from combat situations, with the exception of low level chemical agents which harrass or defoliate, using one of the more unusual forms of CBW immediately makes the use of all CBW weapons more likely.

The artificial psychological barrier between conventional and chemical-biological-nuclear warfare is an uncanny one. Reliance on it to distinguish limited from all-out war is wise. Breaking it in selected instances may mean breaking it altogether. Once gases and diseases are used on the battlefield, distinctions between types of gases and diseases may seem academic.

The Vietnam experience has been deceptively fortunate. Escalation might well have occurred had the North possessed the weaponry or the Russians and Chinese the motivation to intensify the conflict. Initial world reactions to American tactics did not distinguish between types of gases. Distinctions were painstakingly clung to by the U.S., even though Hanoi lacked a chemical arsenal to force escalation with. If they had, the war might have lurched precipitously forward toward a full-scale holocaust when the first tear gas canister was introduced on the battlefield. The safest course is to observe the barriers without exception. For once the established barriers are broken, it may be too difficult or too late to erect new ones.

(ii) Initially limited conflicts

In those wars where the U.S. decides the stakes are high enough to warrant all-out war, weapons which are escalatory may have a place in our military plans. But inclusion of CBW in those plans depends upon how escalatory these weapons are when compared with others already in our arsenal. If they are at least equally likely to lead to all-out war, there seems to be no justification for using them when other weapons can produce similar military results.

A decision to run the risk of total war by first engaging in a limited war does not necessarily mean that we will follow a course inevitably culminating in total war. There would be little reason to alert the opposition if all-out war were certain to result from a local encounter. We will enter a limited conflict when the stakes justify total war only when there is a significant chance of deciding the issue without resorting to total war.

Put another way, we fight limited wars with an understanding that the objective is worth a *risk* of total war. That risk may be relatively high or relatively low. Once it is gauged, our strategy must be tailored accordingly. If we are willing to run a 70 percent chance of total war, then all military responses which make total war more than 70 percent likely are to be avoided. All weapons which do not make total war 70 percent likely can be used, even though they might be characterized as "escalatory." Given this theoretical framework, chemical and biological weapons could be justified in a limited war over high stakes if they were less escalatory than other systems with similar military capabilities.

It should be understood that the criteria for assigning an escalation coefficient to weapons is not their military effectiveness, but their psychological impact on the opposition. Because of the long tradition of abstinence from lethal chemicals, biological agents and nuclear devices in limited wars, all three weapons are likely to have a similar psychological impact on the enemy and therefore be equally escalatory.

Since we have been capable of fighting limited wars in the past without relying on anything more than conventional forces, a decision to use lethal chemical, biological or nuclear weaponry is an implicit admission that purely conventional strategy is incapable of achieving victory. It is a signal to the enemy that this realization was accepted and a recourse to new, escalatory weapons was chosen instead of surrender. The use of any of these weapons is a proclamation that defeat will not be accepted without resorting to great military strength. With this warning, an enemy is just as likely to initiate an all-out war regardless of the particular weapon chosen to rupture the tradition of abstinence.

The possibility of escalation results from the breaking of tradition, not from the mili-

tary mission these weapons are assigned. Their employment indicates that conventional warfare cannot do the job and defeat is unacceptable. Thus it is unlikely that lethal chemical or biological agents could be considered less escalatory than tactical nuclear weapons.

Consequently it seems that, in both the case of limited war which must stay limited and the case of limited war which runs the risk of total escalation, chemical and biological killers cannot be considered valuable for their non-escalatory characteristics.

3. Arms Control

To complete a strategy of finite deterrence, efforts must be constantly made to control the quantity and destructiveness of weapons. War is best deterred when neither side has sufficient hardware to fight one. It is best limited when the types of arms available are limited.

Lethal chemical and biological weapons impede both goals of arms control; thus there are two important reasons for seeking to control the development and proliferation of CBW.

According to publicized reports, both the U.S. and the Soviet Union have large stockpiles of these weapons. Arms control is therefore necessary to limit the quantity of arms available. The initial decision to stockpile has been made. Now the laborious process of disarming faces us.

We have indicated earlier that chemical and biological weapons are extremely destructive. The lethal agents will kill population masses when successfully employed. The non-lethal agents are also highly destructive and may lead to swift escalation when used.

The disarmament issues associated with chemical and biological weapons are in many ways unique. Since chemical and biological weapons have been developed as substitutes for other systems, disarmament can be pursued without significantly decreasing our security in the process.

(a) Voluntary

Because it is doubtful that decreasing our CBW stockpiles would yield significant military danger, voluntary disarmament remains a possibility. It might significantly decrease international fears over the weapons even if no other power followed our lead. But there are strong reasons to believe that others would quickly join in a sincere move toward eliminating lethal chemical and biological weapons from the international scene. To some extent we have justified our stockpiles on the grounds that the Soviets have similar arsenals. Certainly neither side can be comfortable when an uncertain balance of terror exists instead of a calculated equilibrium of deterrence.

The Soviets have repeatedly called for accords on CBW, as have Germany and one of the leaders in biological testing—Great Britain. Thus, both sides may be anxious to be rid of their systems if only the other side begins the process. If it is correct to assume that U.S. military security would not be impaired by the elimination of CBW stockpiles, a viable proposal might be that the U.S. take the initiative; if others then followed our lead, world stability could very well be enhanced.

Voluntary disarmament in the field of chemical and biological weapons has much to commend it. Military strength could be maintained and similar disarmament might begin in other countries. Regardless of the consequences in the rest of the world, the U.S. could claim unchallenged leadership in the quest for arms control and gain immeasurable world support in her efforts.

(b) Negotiated

In a framework of negotiated arms reductions, chemical and biological weapons also offer distinct possibilities. If it assumed that both sides truly fear their actual use in conflict, as public sentiment in both camps indicates, then both sides would be eager to eliminate them from their adversary's arsenal. Because the weapons are not essential to the security of either party, then both can offer major concessions without fearing military insecurity as a result. Thus, suggesting accords on chemical and biological weapons at the beginning of arms talks could test the sincerity of the other parties in achieving significant arms limitations. It could also develop procedures which could be duplicated in other phases of the proposed agreement.

(i) Secrecy and inspection

One important area of disagreement which could be resolved in a CBW pact is the joint issue of secrecy and adversary inspection. Chemical agents could easily be developed from compounds used for many industrial purposes. Biological agents could be produced in a converted brewery, far from the view of an adversary denied treaty inspection rights. Secret research could also nullify the effect of the agreement by developing new agents not covered by previous talks. While this may not shift the military balance, it would demean the prestige of the treaty if both parties realized that circumvention was relatively simple. To avoid circumvention of the agreement, on-site inspection procedures and fluid scientific exchanges must be demanded.

Experts have developed inspection patterns which they feel can insure a sufficient probability of detection to make treaty violation attempts unattractive. But because of the general lack of interest in arms control agreements over CBW, there have been no serious efforts to advance these systems in a formal agreement. If inspection systems are agreed to for chemical and biological weapons, their incorporation into nuclear treaties should be much easier.

Eliminating the secrecy which has previously surrounded CBW research and deployment is both necessary for a successful arms limitation agreement and wise as a measure designed to eliminate irrational fears associated with CBW in general. Because no one is quite sure of the extent of our CBW arsenal, whispered tales of a "doomsday bug" cannot be dismissed out of hand. Fear is generated both at home and abroad because of what *might be* stored in secret garrisons, not what is actually stockpiled there.

A second proposal could be the initiation of arms talks to consider CBW. If such advances are spurned, we might then advocate eliminating our stockpiles with wide public knowledge. Also to be considered as possible steps should be the de-classification of future research in the field. We gain nothing by hiding information about a weapons system that seems to be untrustworthy; yet we risk much by encouraging our opponents to believe the worst about such a weapons system.

(ii) Nuclear accords

If nuclear agreements are seriously contemplated, as we hope they are, then CBW accords are essential. Otherwise the existence of devastating chemical and bological reserves would subvert any nuclear agreement by continuing an arms race with CBW even though the nuclear surge had been halted. An agreement on nuclear weapons should be a signal that mass death is being made less likely, not that different weapons have been chosen to annihilate humanity.

III. THE RISKS

Incorporation of chemical and biological agents into our overall military strategy, it seems, would involve more than an unnecessary waste of funds for a marginal addition to our military might. Continuing secret research with these agents and augmenting stockpiles of those weapons which have reached the production stage would probably involve enormous risks for our own security and future world stability.

(*A*) *Of use*

It is frightening to realize that the dangers of using CBW are perceived most not by the uninformed but by those most knowledgeable in the field. Prize-winning biologists imagine with horror the ultimate consequences of a large biological attack. Chemists who have worked toward weapons development realize that even non-lethal agents can become killers if the wrong dosage is involved.

Our evaluation of the military merits of the various weapons points repeatedly to the following possible disadvantages: Plotting starvation in a world is which is already wrestling with the spiraling problems of population and hunger is short-sighted. Tampering with nature's delicate balance is imprudent when the dangers associated with a volatile environment are incalculable. Initiating world-wide epidemics is indeed "medicine in reverse" and adds a dimension of horror and primitivism to modern warfare which is understandably decried by many.

It is important to appreciate the international repercussions of using chemical weapons in Vietnam. By making them respectable after an almost complete international avoidance of them since World War I, the U.S. has made all chemical weapons more attractive in any future war. Once the barrier between conventional and chemical weapons is broken, it is difficult if not impossible to erect new ones which distinguish between categories of chemical weapons.

There are several reasons why chemical warfare would be attractive to many nations once international prohibitions against their use could be easily ignored. They are relatively easy to develop and comparatively inexpensive if a nation feels a need for a mass killer to improve its security. The U.S. has already made scores of countries aware of the potential advantages that chemicals offer by training foreign military officers in the use of these weapons.

The recent Nuclear Non-Proliferation Treaty has made these weapons even more attractive. Denied access to nuclear weapons, countries which still feel a need to exercise independent initiatives with strategic weapons turn quite naturally to CBW. While previous international accords may have deterred them from actually using such weapons, our policies in Vietnam have made CBW a little more respectable and may have made CBW proliferation a real danger.

As with nuclear weapons, the U.S. loses a measure of security when many smaller countries possess a capacity for CBW. Chemical and biological weapons are equalizers in battle which mute the advantage the U.S. maintains in industrial strength and conventional military firepower. It would certainly be better to forego the marginal benefits which CBW provides if such abstinence made proliferation less likely. If weak opponents can respond with CBW, we would not only lose the advantage we had sought by using such weapons, but we would also face the neutralization of our conventional firepower advantage.

(*B*) *Of stockpiles*

The dangers of actual use obviously become greater as our stockpiles mount. Moreover, previous experience indicates that an impressive arsenal makes battlefield use quite likely. A long abstinence from all chemical and biological weapons was forsaken in Vietnam after a previous decision to research and develop the weapons had been made.

During the conflict, only the decision to employ the gas was necessary. There have been reports that biological weapons were not used during the Cuban missile crisis because they were not available. Other sources indicate that biological strikes have been proposed during the current conflict but pressures to use them were successfully resisted.

It is reasonable to assume that as our capacities in the field of CBW grow, opportunities for using them will seem more numerous. One assent would set a perilous precedent. Reliance on the abstinence of the past does not insure continued avoidance if the weapons are constantly available when military plans are formulated. It is likely that only elimination of the weapons can insure avoidance of them and their inherent dangers.

(C) Of secret possession

Yet, even before they are actually incorporated into normal combat operations, we run significant risks by testing and producing chemical and biological weapons. Presumably, chemical and biological agents significantly increase international instability and tension because rational calculations are very difficult. As with any weapons system, possession indicates the possibility of use. Thus, although we constantly profess peaceful policies and argue that CBW research is defense-oriented and stockpiling is for deterrent purposes, our adversaries remain unconvinced. They are frightened by our arsenal. Their fears may well lead to unstable relations between our nation and others.

Because of the possibility of covert biological attacks, these fears can conceive a crisis from an accident. If any country were to suffer a sudden epidemic of an unusual or unknown disease it might immediately assume that a traditional enemy had attacked it with biological weapons. Assurances to the contrary might prove futile. A war might begin because of a freak fever or a laboratory mishap. Adequate control of biological weapons could very well reduce the likelihood of such a scenario.

If detection devices were developed and installed, they could increase tensions as well. A false alarm could create diplomatic chaos as accusing fingers were pointed at dozens of potential attackers before the true origins of the alarm were discovered. By maintaining a large, secret arsenal, the U.S. runs the great risk of being a prime suspect if a CBW attack were alleged for any reason. Denying such a charge would be extremely difficult and shifting the blame to another nation may be politically impossible.

Not only are enemy intentions difficult to calculate when chemical and biological agents must be considered, but the capabilities of the enemy are also uncertain. As a possible victim of such an attack, a nation must calculate its position under the assumption that the weapons will be highly effective. Yet as a possible attacker, each nation must play it safe by assuming that these agents will be largely ineffective. The latter set of assumptions will usually persuade a nation not to attack, but the former hypothesis may make a country overly fearful of attack. While one party is developing a peaceful line of diplomacy because it assumes it does not have the capability to use CBW, its opponent is constantly on guard against a CBW attack because it is possible and it must be assumed successful. Neither party benefits from this two-edged sword. Stable relations are subverted because of the unstable calculations which must accompany all adversary situations involving CBW.

It is these risks which must be weighed against the alleged benefits of CBW. Because such questions concerning the disadvantages of CBW exist, there is clear cause to consider the elimination of chemical and biological weapons from our present arsenal.

When considering the desirability of crop destruction or defoliation, the indeterminate damage that may be done to the balance of nature in pursuit of military gain should not be forgotten. The marginal safety which biological weapons add to our deterrent ought to be coupled with the misery which an uncheckable epidemic could promote. Although the suggestion that the weapons be abandoned might seem too extensive, the uneasy diplomatic and political situation which inevitably haunts the nation if it retains them might warrant such thought.

As with any priority decision, serious consideration ought to be given to the alternative resource demands which the nation constantly makes. The scientific talent devoted to perfecting virulent disease strains may be more urgently needed in the quest for medical breakthroughs. The funds required for testing and producing delivery systems might be better spent alleviating the many domestic problems now facing the country. A decision on military affairs must be made within the context of competing peacetime demands. Thus the balance between costs and benefits, advantages and disadvantages must be struck after weighing both military and non-military factors. In the case of CBW, especially lethal varieties, the balance seems heavily weighted against the weapons.

IV. CONCLUSION

One of the possible results of eliminating our silent arsenal might be the avoidance of the dangers of escalation presently believed associated with CBW. If such a policy were adopted, the risks of stockpiling and the horrors associated with using these weapons could be avoided.

Consideration of applying the brakes in our headlong rush toward developing chemical and biological killers should be a matter of the greatest urgency. These weapons seem ill-suited to today's military strategies. At best, they might be characterized as unacceptable substitutes for weapons already in use. Their abandonment could provide a greater atmosphere of rationality in military calculations and a more secure state of mind for modern day man by removing one horrifying threat to his existence.

TABLE 1.—GENERAL CHARACTERISTICS OF LETHAL CHEMICAL AGENTS

Type	Mechanism	Time for onset of effects	Examples
Nerve agent G	Interferes with transmission of nerve impulses	Very rapid by inhalation (a few seconds)	Tabun, Sarin, Soman.
Nerve agent V	do	Very rapid by inhalation (a few seconds); relatively rapid through skin (a few minutes to a few hours).	VX.
Blister agent	Cell poison	Blistering delayed hours to days; eye effects more rapid.	Sulfur mustard, nitrogen mustard.
Choking agent	Damages lungs	Immediate to more than 3 hours	Phosgene.
Blood agent	Interferes with all respiration	Rapid (a few seconds or minutes)	Hydrogen cyanide.
Toxin	Neuromuscular paralysis	Variable (hours or days)	Botulinum toxin.

Source: U.N. report.

ANNEX C.—SOME BIOLOGICAL AGENTS THAT MAY BE USED TO ATTACK MAN

Disease	Infectivity [1]	Transmissibility [2]	Incubation period [3]	Duration of illness [3]	Mortality [3]	Antibiotic therapy	Vaccination [4]
Viral:							
Chikungunya fever	Probably high	None	3 to 6 days	2 weeks—a few months.	Very low (<1 percent).	None	None.
Dengue fever	High	do	5 to 8 days	A few days to weeks.	do	do	Do.
Eastern equine encephalitis	do	do	5 to 15 days	1 to 3 weeks	High (>60 percent)	do	Under development.
Tick-borne encephalitis	do	do	1 to 2 weeks	1 week to a few months.	Variable up to 30 percent	do	Do.
Venezuelan equine encephalitis	do	do	2 to 5 days	3 to 10 days	Low (<1 percent)	do	Do.
Influenza	do	High	1 to 3 days	do	Usually low, except for complicated cases.	do	Available.
Yellow fever	do	None	3 to 6 days	1 to 2 weeks	High (up to 40 percent).	do	Do.
Smallpox	do	High	7 to 16 days	12 to 24 days	Variable but usually high (up to 30 percent).	do	Do.
Rickettsial:							
Q-fever	do	None or negligible	10 to 21 days (sometimes shorter).	1 to 3 weeks	Low (usually 1 percent).	Effective	Under development.
Psittacosis	do	Moderately high	4 to 15 days	1 to several weeks	Moderately high	do	None.
Rocky Mountain spotted fever	do	None	3 to 10 days	2 weeks to several months.	Usually high (up to 80 percent).	do	Under development.
Epidemic typhus	do	do	6 to 15 days	A few weeks to months.	Variable but usually high (up to 70 percent).	do	Available.

See footnotes at end of table.

ANNEX C.—SOME BIOLOGICAL AGENTS THAT MAY BE USED TO ATTACK MAN—Continued

Disease	Infectivity [1]	Transmissibility [2]	Incubation period [3]	Duration of illness [3]	Mortality [3]	Antibiotic therapy	Vaccination [4]
Bacterial:							
Anthrax (pulmonary)	Moderately high	Negligible	1 to 5 days	3 to 5 days	Almost invariably fatal.	Effective if given very early.	Available.
Brucellosis	High	None	1 to 3 weeks	Several weeks to months.	Low (<5 percent)	Moderately effective.	Under development.
Cholera	Low	High	1 to 5 days	1 to several weeks	Usually high (up to 80 percent).	do	Available.
Glanders	High	None	2 to 14 days	4 to 6 weeks	Almost invariably fatal.	Little effective	None.
Melioidosis	do	do	1 to 5 days	4 to 20 days	Almost 100 percent fatal.	Moderately effective	Do.
Plague (pneumonic)	do	High	2 to 5 days	1 to 2 days	do	Moderately effective if given early.	Available.
Tularemia	do	Negligible	1 to 10 days	2 to several weeks	Usually low, sometimes high (up to 60 percent).	Effective	Do.
Typhoid fever	Moderately high	Moderately high	1 to 3 weeks	A few to several weeks.	Moderately high (up to 10 percent).	Moderately effective	Do.
Dysentery	High	High	1 to 3 days	A few days to weeks	Low to moderately high depending on strain.	Effective	None.
Fungal: Coccidioido mycosis	do	None	1 to 3 weeks	A few weeks to months.	Low	None	Do.

[1] Infectivity: Indicates the potency of the parasite to penetrate and multiply in the host's organism, regardless of the clinical manifestation of illness. In fact, there are several agents by which the great majority of the exposed population will be infected without developing clinical symptoms.

[2] Transmissibility: This refers to direct transmission from man to man without the intervention of any arthropod vector.

[3] The figures listed under incubation period, duration of disease, and mortality are based on epidemiological data. They vary, according to variations in virulence and dose of the infecting agent, resistance of the host, and many other factors. It also should be noted that, if the agents concerned, would be deliberately spread in massive concentrations as agents of warfare, the incubation periods might be shorter and the resulting symptoms more serious. As to mortality, this refers to the ratio between the number of fatalities to the number of diseased (not to that of infected) individuals, if no treatment is given.

[4] The availability of vaccines is no indication of their degree of effectiveness.

Source: U.N. report.

Mr. ROBISON. Mr. Speaker, the study introduced by the gentleman from Oregon (Mr. DELLENBACK), and of which I am a cosponsor, examines as has been noted the strategic and tactical implications of chemical and biological weapons. I believe that the Congress—and the administration—should also reexamine the general foreign-policy implications of such weapons.

Dr. Matthew S. Meselson, Harvard biologist and an acknowledged expert in the field of chemical and biological weapsons, did approach this aspect of our overall problem in an address he delivered earlier this year. In that address, he discussed America's chemical warfare policies and related them to such international discussions and agreements concerning CBW as have been held or attempted—pointing out that many nations have agreed to the 1925 Geneva Protocol, so-called, 12 of which have stated that they interpret the protocol to include tear gases. In contrast, he notes that the United States has not ratified the protocol, has taken various positions on tear gas since 1925, and has been using large quantities of such chemicals in Vietnam.

It is Dr. Meselson's premise that the overriding U.S. policy toward CBW ought to be one of preventing the proliferation, legitimization and use of such weapons—a premise with which I would wholly agree—and, as his address is a thought-provoking review of many of the international issues revolving around CBW we ought to be considering, I insert it now in the RECORD for the information of my colleagues:

CHEMICAL AND BIOLOGICAL WEAPONS—WHAT SHOULD U.S. POLICY BE?

(By Matthew S. Meselson)

Chemical and biological weapons, like nuclear ones, are capable of killing very large numbers of people, especially civilians. Nerve gases are comparable to the uranium bomb, in the sense that a single large bomber dispensing one of the more toxic ones under meteorological conditions favorable to the attacker could kill most unprotected individuals within an area the size of the high casualty zone at Hiroshima or Nagasaki. You may recall the accident last year at Skull Valley, Utah, where gas from a test escaped and led to the death of 6,400 sheep over an area of some 200 square miles. Biological weapons, employing Anthrax spores, or other potential biological agents, are even more powerful than nerve gas, because less is required to kill a human being and therefore less is required to attack a given area. For example, a standard United States field manual, "The Employment of Chemical and Biological Weapons," states that a single fighter plane can spray enough biological agent to cause 50% mortality in an area of 300 square miles.

Fortunately, chemical and biological weapons have never been used in this fashion. Nor does any nation in the world today prominently threaten the use of chemical and biological weapons as they do nuclear weapons. The United States and the other major nuclear powers do not need chemical and biological weapons to deter strategic attacks against themselves. These weapons are not needed to maintain the so-called balance of terror. Nuclear weapons do that. Chemical and biological weapons would simply get in the way by complicating the calculations and expectations of the respective sides in any strategic crisis.

These weapons offer no ability to limit damage from enemy strategic nuclear forces, since the latter can be easily protected. The proliferation of chemical and especially biological weapons would greatly increase the threat to nuclear nations by offering relatively cheap strategic destructive capabilities to the nuclear nations. In short, for a country like the United States, chemical and biological weapons are the worst imaginable strategic weapons.

There are some important properties of chemical and biological weapons that concern their capabilities for tactical use. In my opinion these properties should make the United States eager to prevent chemical and biological weapons from ever being used. Chemicals are very cumbersome weapons to defend against. When chemical weapons are used in combat, soldiers must be provided with protection if the enemy is able to retaliate in kind. This means masks, protective suits, and lugging along enormous amounts of decontamination equipment. The more complicated and interpendent a fighting force is, the more will these protective measures reduce their fighting efficiency. Sophisticated forces would often be placed at a disadvantage with respect to less sophisticated ones. Mortar cartridges loaded with nerve gas have a much higher kill radius than conventional ones. And as we know, large numbers of mortar shells can be deployed even by guerrilla forces. In other words, the violence level of tactical combat would be enormously increased if lethal chemical weapons were legitimized and came to be used—and their employment could be more advantageous to the enemy than to us.

Gas and germ weapons are difficult to confine—witness the death of the 6,400 sheep, 30 miles away from the test site. This is a case in which the most extreme precautions, we are told, were taken to be sure that no such accident would occur. Under not uncommonly stable meteorological conditions, the tactical employment of moderate quantites of nerve gas could create lethal concentrations as far as 100 kilometers or more downwind from the battlefield. Thus, although fighting forces can be well protected against gas, its tactical employment could easily kill large numbers of civilians. For example, a few days of tactical nerve gas employment in Europe could quite easily kill tens of millions of civilians.

Another feature of these weapons that should make them anathema to the United States is that they are prohibited by International Law. The major existing international agreement that prohibits their use is the Geneva Protocol of 1925, which specifically prohibits the use of "asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices" and of "bacteriological methods of warfare." The Geneva Protocol was proposed by the United States.

Finally, I wish to add one more consideration which is enormously important, and that is that these weapons are particularly abhorred by mankind. We should do nothing to erode this view, because it may be the decisive safeguard against the proliferation of weapons which would gravely threaten the security of the United States as well as that of others.

In view of these circumstances, one would think that the overriding purpose of United States chemical and biological warfare policy would be to prevent the proliferation, legitimization, and use of these weapons. We are

the pace-setter in military matters, or at least, a co-equal pace-setter with the Soviet Union. Therefore, our actions, our statements, our policies, will influence the nature of warfare in the future. Unfortunately, unwisely, it is not the case that the overriding purpose of U.S. chemical and biological warfare policy is to prevent the spread, legitimization, and use of chemical and biological weapons. This is not to say that the United States is at present using lethal chemical and biological weapons or that the United States is pressing hard to abolish the world-wide agreements and restraints against the use of these weapons. Rather, our policy is ambiguous, internally inconsistent, and looks menacing and provocative to the rest of the world. There's only one country whose policy I consider to be worse than our own. This is the country that has used poison gas against unprotected villagers in the Yemen—apparently Egypt, although she denies it.

Now when I say that the policy of the United States is unwise, confused, provocative, and dangerous, I don't primarily mean our research and development policy, although I would include some aspects of that. And I don't mean our work on defensive measures, although some of that I think is unwise, and it is done in unnecessary secrecy. And I don't mean our efforts in intelligence to find out what other countries may be doing in this area, although it is improperly used and badly exaggerated to stimulate higher appropriations for CBW. I don't mean any of those things if they serve the purpose (which I think should be overriding) of preventing the legitimization, proliferation and use of chemical and biological weapons. What I do refer to are two things. First, our use of "non-lethal" chemical weapons in Vietnam, specifically the agent called CS or super-tear gas and chemicals used to attack food crops. And secondly, I refer to our international policy. I'd like to say something briefly about these policies and actions.

First, regarding the use of non-lethal gas in Vietnam, it is true that the agent we use in great quantity, CS, is not lethal in the open when used for police purposes. It can kill when used in confined spaces. It is less lethal to a variety of experimental animals than the kind of tear gas usually used by police. But we really aren't sure that this comparison holds for man. CS is a very reactive chemical and, as used by the military, it penetrates to the deep recesses of the lungs. Almost nothing is known about its possible long-term after effects.

However, regardless of the toxicity of CS when used by itself, the idea that war can be made more humane by the use of such chemicals is a myth. "Non-lethal" gases introduced into the field of combat will come to be used in any way they possibly can to increase the effectiveness of bullets, bombs, and other lethal weapons. We have used nearly 14,000,000 pounds of CS in Vietnam since 1965. Most of it is used for purposes that cannot be considered "non-lethal". It is supplied to our forces in Vietnam in grenades, mortar shells, rockets, 105 mm and 155 mm howitzer projectiles, with ranges up to 15 km, and in bulk disseminating devices and aircraft cluster bombs up to 1000 pound size. The distinction between lethal and non-lethal gases might be made in the laboratory under conditions of controlled use. But that distinction looses its meaning when "non-lethal" gases are massively used in order to kill, in close coordination with conventional lethal weapons.

The myth of humane chemical war could be a reality, but not in today's world. If all lethal weapons were put away and if men still fought wars (that's hard to imagine), then non-lethal gases could be used in war without much killing. But that's not the situation. In proposing the use of non-lethal weapons, the military have never proposed that the lethal ones be put away.

I think that non-lethal gas warfare is worse than a myth; if it were just a myth you'd say, well, it's not going to do anything except disappoint those who thought that it would save lives. It won't be much worse than regular conventional weapons. The use of non-lethal gas in war is highly dangerous. Its use sets the stage for the use of other cases—for the use of lethal chemical weapons. Although that hasn't yet happened in Vietnam, it did happen in World War I. The first gases used were tear gases. The French and Germans used them in regular military operations. In one artillery barrage alone, at Neuve-Chapelle, 3,000 tear gas artillery shells were fired. This was all before the famous German use of chlorine gas at Ypres in 1915.

"Non-lethal" gas sets the stage for escalation because it makes men wear masks. It teaches officers and men the rather special techniques of gas warfare. It teaches them to look for favorable situations in which to use gas. It causes the military to ask for gases that are more effective. It causes military establishments in all countries to review their previous policies and to consider procurement of their own gas weapons. It erodes the general expectation that gas will not be used in war.

Finally, a strong case can be made that the use of "non-lethal" gas violates the 1925 Geneva Protocol, even though the United States claims it does not. This treaty, ratified by over 60 nations, prohibits the use in war of poisonous, asphyxiating and other gases, and of all analogous liquids, materials, and devices." In 1930 the United Kingdom, France, Rumania, Spain, the Soviet Union, China, Italy, Canada, Turkey, Czechoslovakia, Yugoslavia, and Japan declared that they viewed the use of tear gas in war as prohibited by the Geneva Protocol. The United States, which has not yet ratified the Protocol, was the only nation which disagreed with this view. However, two years later, at Geneva, even we agreed that the use of tear gas should be prohibited in war.

I'd like to turn to the second aspect of what I consider to be foolish and dangerous U.S. policy for chemical and biological weapons. This concerns our international policy. I'd like briefly to trace the development, or I should say the fluctuations in that policy, since World War I. I've described how World War I gas usage began with tear gas, then went to chlorine, mustard, phosgene, and other poison gases. Following that war, language was introduced into the Treaty of Versailles affirming a general prohibition against the use of asphyxiating, poisonous and other gases (the same language that is in the Geneva Protocol) and specifically prohibiting their possession by the defeated powers. Subsequently, in 1922 at the Washington Disarmament Conference, a prohibition against the use of asphyxiating, poisonous and other gases, and all analogous materials, liquids and devices was agreed upon by the nations represented there, including the United States, which introduced it. The Senate recommended ratification of that treaty without a single dissenting voice and the United States ratified it in 1925. Unfortunately, the Washington Treaty never came into effect, because it contained an article on an unrelated matter dealing with submarine warfare to which the French objected. A clause in the treaty required French ratification.

In 1925 there was a meeting in Geneva to discuss the world-wide sale of arms. The United States was represented at that meeting and asked the delegates if they would place on the agenda the question of gas warfare. It was the policy of the United States at that time to press for prohibition of gas warfare. The other nations supported our initiative and the Geneva Protocol was born. It was signed by the United States and 37 other nations present. However, the Senate failed to approve the Geneva Protocol. It was debated, but never came to a vote. The Senate debate on the Geneva Protocol was partly in secret, and partly in public. The public part began with the reading of a letter from General Pershing who wrote,

"I cannot think it possible that our country should fail to ratify the Protocol which includes this or a similar provision. Scientific research may discover gas so deadly that it will produce instant death. To sanction the use of gas in any form would be to open the way for the use of the most deadly gases and the possible poisoning of whole populations of non-combatant men, women and children. The contemplation of such a result is shocking to the senses. It is unthinkable that civilization should deliberately decide upon such a course."

General Pershing's letter was the only strong statement in favor of the Protocol. An effective lobby was organized at the time by the American Chemical Society, the Army Chemical Corps, the American Legion, and parts of the chemical industry. They opposed ratification of the Protocol and it was referred back to the Foreign Relations Committee and never came out again. The supporters of the Protocol had been caught by surprise. Thinking it would pass through the Senate as easily as the Washington Treaty four years earlier, they failed to do their homework and to organize public support. Subsequently, at the Geneva disarmament conferences in the 1930s, the matter came up again and representatives of the United States and other nations agreed to a treaty covering a large variety of weapons which prohibited the use of gas in war, specifically stating that tear gas was subject to the same prohibition as all other gases. The United States agreed to that stipulation in 1932. This treaty never came into force because the approach of World War II disrupted the meetings.

At the start of World War II the French and British exchanged assurances with the Germans and Italians that gas would not be used and that the Geneva Protocol would be obeyed. And so it was. In all of the combat in World War II on land and on the sea, neither gas nor biological weapons were used at all in Europe. Gas is thought to have been used on several occasions by Japan against China before we entered the war. In essence, however, biological and chemical weapons were not used in that global conflict. Incidently, both the United States and Germany produced large quantities of tear gas weapons but not even these were used.

In the middle 1950's, the United States budget for chemical and biological warfare research and development ran around ten million dollars a year and our efforts were mainly directed at defense. In the late fifties a large increase began, an increase which in the course of the next five years multiplied the budget more than ten-fold. The earlier emphasis on defense shifted to a new emphasis on employment of CB weapons. At the time of the changes, in 1959, Congressman Kastenmeier of Wisconsin introduced a joint House-Senate resolution stating that its sponsors did not oppose research and development, did not oppose expansion of the program, did not oppose readiness, but did feel that the United States should reaffirm her long-standing World War II policy of never using chemical or biological weapons, except in retaliation.

Unfortunately, I think foolishly, the Defense and State Departments at the time opposed the Kastenmeier resolution, and in separate letters to Congress explained their reasons. The State Department letter of 1959 stated:

"Similar declarations might apply with equal pertinency across the entire weapons spectrum, and no reason is conceived why

biological and chemical weapons should be singled out for this distinction."

The State Department was not perceiving the Geneva Protocol. At the time of the increase in the budget in the late 50's and early 60's, Army manuals added language to say that the United States was not a party to any treaty that would prevent us from initiating the use of chemical and biological weapons and new field manuals were issued emphasizing the offensive employment of gas and germ weapons. And then, as you know, non-lethal gas was used in Vietnam. When non-lethal gas was first used there, it caused a storm of questioning and criticism. At that time Secretary Rusk said that the expectation was that such gases would be used "only in riot-control-like situations," and "not in ordinary military operations." Indeed he may have expected that, but it's not what happened. As you have seen, gas is now used on a very large scale and is used in close support of ordinary, conventional lethal operations.

In 1966 the Hungarians introduced a resolution in the United Nations General Assembly calling upon all nations to observe the Geneva Protocol. The resolution was cast in rather harsh language. The United States, at first, opposed the resolution but then the Hungarians indicated that they were willing to soften the language and it became apparent that essentially all other members of the United Nations were in favor of the resolution. The United States ultimately voted for and even co-sponsored the revised resolution. I'm glad to say that we did so.

In the course of the debate, however, our delegate, Mr. Nabrit said, (departing from the actual text of the Protocol):

"The Geneva Protocol of 1925 prohibits the use in war of asphyxiating and poisonous gas and other similar gases and liquids with equally deadly effects. It was framed to meet the horrors of poison gas warfare in the first World War and was intended to reduce suffering by prohibiting the use of poisonous gases such as mustard gas and phosgene, but it does not apply to all gases. It would be unreasonable to contend that any rule of international law prohibits the use in combat against an enemy for humanitarian purposes of agents that governments around the world commonly use to control riots by their own people."

I leave it to you to evaluate the accuracy and the wisdow of this statement.

Our policy at present is riddled with internal inconsistencies and I might mention just a few. The first is, do we or do we not feel that the prohibition against gas and biological weapons of the Geneva Protocol is binding upon ourselves? The field manuals still say that we are not bound by any such treaty. The State Department on December 22, 1967 on the contrary stated, "We consider that the basic rule set forth in this document has been so widely accepted over a long period of time that it is now considered to form a part of customary international law." But Deputy Secretary of Defense, Cyrus Vance, on February 7, 1967 said to the Foreign Relations Committee, "We have consistently continued our *de facto* limitations on the use of chemical and biological weapons." This statement sounds as though it is merely a matter of present policy subject to change.

The question is, do we or do we not consider ourselves bound by the Geneva Protocol which prohibits first use, but does not prevent research, development, or retaliation? Another question that might be asked of the United States is: do we believe that the use of non-lethal gases in order to kill is covered by the Geneva Protocol? As I mentioned, Secretary Rusk said that the anticipation was that these weapons would be used only in riot-control situations. The facts are very different. Another question: the Defense Department stated before the Senate in 1967, that "It is clearly our policy not to initiate the use of lethal chemicals or lethal biologicals." I question, why does the Defense Department specify lethal biologicals? Does this mean that it is not against our policy to initiate the use of so-called incapacitating germ weapons?

These are hard questions. The United States, of all nations, should be the first to wish that chemical and biological weapons not be legitimized and not come into general possession and use. These questions had better be answered soon. There's a possibility that better and more consistent answers will be forthcoming because a number of things are taking place on the international scene today with regard to chemical and biological weapons. Unfortunately, none of these have occurred at the initiative of the United States. It's a pity; all of these things could have been done by the United States. The General Assembly has asked Secretary General U Thant to prepare a study on chemical and biological weapons for the use of the Eighteen Nation Disarmament Committee at Geneva, and that study is now going on. The United States has a representative on the study, but the proposal did not come from us. The United Kingdom has proposed at the Eighteen Nation Disarmament Committee in Geneva a total ban on biological weapons, including a prohibition against their use even in retaliation, and also a prohibition on their production.

What should the United States be doing in this area? It seems to me that we should be pressing for universal ratification of the Geneva Protocol; it should be resubmitted to the Senate for advice and consent as to its ratification. I think that the United States should clearly state that we do not intend to separate gases according to their types and kinds, and that we are willing to refrain from using tear gas and anti-crop chemicals in war. We should welcome the British proposal and we should review our multi-million dollar a year investment in chemical and biological warfare research, development and procurement, to make sure that whatever is done, is done in consonance with what should be the overriding objective, namely to prevent the legitimization, proliferation and use of these weapons.

What can scientists like ourselves do about this matter? Possibly a great deal. These are not the weapons upon which the deterrence of war rests. Reasoned argument in this area can have effects. I believe that even a relatively small amount of attention given to these matters by a few citizens can lead thoughtful officials and legislators to look into the matter. I believe that there's a good deal of room for careful study and papers. There is no careful study, of which I'm aware, on the history and legal status of "non-lethal" chemical and biological weapons in war. There's no careful paper of which I'm aware on the reasons why "non-lethal gas warfare" is a myth. The subject is interesting to the general public. Newspapers, radio and television are generally receptive to anybody who wants to present responsible views on this subject. This is an area where scientists can be effective by learning facts and by expressing their views to officials, legislators, and to the public.

Mr. MOSHER. Mr. Speaker, as a cosponsor of the study introduced by the gentleman from Oregon I would like briefly to focus the attention of my colleagues on our present use of chemical weapons in Vietnam.

I was pleased last week to learn that the President has limited the use of the chemical 2,4,5–T, a principal defoliant agent. This restraint was prompted by a finding that this substance is potentially dangerous to the inhabitants of regions where the chemical is applied.

Yet there are strong reasons to eliminate all chemical weapons from the battlefield in Southeast Asia. These weapons are more readily associated with an aggressively offensive strategy, not with the new posture of protective reaction which we have adopted.

Eventually we will have to remove chemical weapons from Vietnam, since control over them should never be allowed to pass from our own military commanders. There is a great danger that chemicals will be used in indiscriminate or inhumane ways if careful control is not exercised over them. When complete Vietnamization of the conflict is accomplished, this control will not be possible. Consequently the war will ultimately have to be conducted without the use of chemical weapons.

If we make the adjustment away from chemicals now, as we should be able to in connection with our shift to a strategy of protective reaction, there could be significant advantages. It would be a clear qualitative decrease in the level of fighting.

This decrease would be a clear signal at home and abroad that the conflict was being deescalated and de-Americanized. I feel this policy deserves serious consideration by my colleagues and I hope the administration will weigh its merits during its continuous review of the Vietnam situation.

Mr. SCHWENGEL. Mr. Speaker, as a cosponsor of the study introduced by the gentleman from Oregon, I hope that a serious reevaluation of our Nation's chemical and biological warfare policy will be forthcoming. The issues which will finally determine that policy are complex, but they are considerably different from those which might prompt us to encourage other countries to achieve an independent CBW capability. I am disturbed that we may already be stimulating CBW proliferation.

According to publicized reports, we are presently giving chemical warfare training to military representatives from many foreign nations. We have been accused of training Egyptian officers who later supervised a gas attack against villagers in Yemen. Regardless of the truth of these charges, they do highlight a danger inherent in our apparent policy of training foreign soldiers in the use of chemical weapons. After they realize that chemical warfare is relatively cheap and extremely difficulty to defend against, these officers are likely to request their own chemical capability when they return to their homelands.

The United States gains nothing from CBW proliferation. If other nations use chemical weapons against us, we actually lose a significant conventional firepower advantage.

If such weapons are used in local conflicts by foreign nations, there is a great danger that they will be used irresponsibly or unmercifully. America should not be even indirectly responsible for such tactics.

I believe our reported policy of training foreign military personnel in CBW is in need of serious reevaluation. The policy may not yield a significant advantage and could well make general chem-

ical warfare more likely, thereby compromising our own military position and increasing the level of destruction in even the smallest of conflicts.

GENERAL LEAVE TO EXTEND REMARKS

Mr. DELLENBACK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks on this subject.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

THE PRESIDENT'S ADDRESS TO THE NATION WITH REFERENCE TO HIS VIETNAM POLICY

(Mr. EDWARDS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Alabama. Mr. Speaker, on this day of the President's address to the Nation which will deal with his Vietnam policy, I do not want to add to the already overwhelming amount of prejudging that is going on. I would, however, like to make a few observations about these activities.

Already we are being barraged by commentaries about what the President will probably say, what he most likely will not say, what he might say; but no one—and absolutely no one, but the President and his intimate advisers—can tell you what he will certainly say. The Soviet Union has already practically condemned it. Premier Ky has filled us all in on the fact that there will be nothing new. And the entire American news media feel they somehow have the inside scoop.

I hope that this evening when millions of Americans listen to the words of their elected President they will not already be prejudiced in their thinking. I hope that they will reflect honestly and objectively on what he has to say.

FREEDOM BECOMES ILLEGAL—EVERYBODY'S BUSINESS

(Mr. RARICK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. RARICK. Mr. Speaker, the Supreme Court, ignoring the law, has decided the Mississippi school cases as recommended by the NAACP. It has ordered that the very acts forbidden by Congress be enforced as law. No one but the NAACP and the far left wants racial assignments to meet the "Doctrine of Racial Proportions," and the school boards, the Departments of Health, Education, and Welfare and Justice cautioned delay.

Parents of both races want freedom of choice, but the NAACP, which has never been led by a Negro in its history, persuaded its puppet court to enforce as law the illegal acts of its bureaucratic stooges.

The resulting crisis in our southern schools is every American's business.

When any segment of our citizens has been forcefully removed from basic freedoms through judicial tyranny, every American is threatened.

We are either one country or we are not, and so long as one section of our country is exploited and made a whipping boy for political expediency, no American is secure from extension of this oppressive theory to include suppression and intervention into his own God-given rights.

One penetrating analysis of the crisis in the South written by a non-Southerner was prepared by Richard B. Cotten, author and editor of Conservative Viewpoint, Post Office Box 17194, Dulles Airport, Washington, D.C. 20041.

Mr. Cotten calls his analytical report, "What's Happening in Southern School Districts is Everybody's Business."

I include it as part of my remarks:

What is taking place in our Southern States is everybody's business! It is very easy for those living outside the South to pretend that somehow what happens there is not their business. Yet, if the government is so far removed from any Constitutional restraints that they can *rule by bureaucratic edict*—in the Southern States—then what is to prevent it from doing exactly the same to *your* school district? The answer is: Absolutely nothing! We are either "united" as a Nation and will therefore be able to stand; or we are divided, and are fair game for the "hidden hand" which manipulates our government.

A few years ago I had no ability to speak "with authority" with respect to our southern states. Born in Arizona and raised in California, I too had believed a great deal of what I had heard about the treatment of negroes—by whites—in the South. I didn't like it one bit. Mind you, I had carefully moved my children into a neighborhood that automatically insured that their school would be segregated. At the same time, however, I felt that somehow, the South was "getting what it had coming to it" or some such nonsense.

I can now say (as many before me have said) "You have to live there to know what it's like." I have lived there—in Shreveport, Louisiana, for three full years, and I travelled extensively in the South, meeting many of their top legislators and government officials, and feel I am qualified to speak to a certain extent. I now know that, beyond any shadow of a doubt, that a Southerner cannot plead his own case, so I intend to do what I can to help the West, the North, the Mid-West, understand what is happening in the Southern States.

These views are my own. I feel very strongly that, unless we can understand—and sympathize with—the South, irrevocable damage will be done our Nation, and another civil war will be brewing. It does not have to happen, if those outside the South will support the South in demanding that the bureaucrats be made to "lay off" writing the laws themselves.

The present controversy centers in the school districts.

First and foremost, the South is aware that the 14th Amendment has never been *legally* ratified. Furthermore, they know that the Civil Rights "law" cannot (constitutionally speaking) be, in fact, "Law." Nevertheless, they have had to go along with the bureaucrats. They have watched an invasion of northern "Feds" come down and register illiterates *after their state constitutional requirements for voters' qualifications had been set aside by imperial mandate.* The day will come when other states will wish they had supported the South's resistance to this. They, too, may soon find they are no longer *allowed* to have state voter qualifications.

The South "went along" with all that happened and, under court order, proceeded to "integrate." This brings us to a vital step. The "law" itself (the 1964 so-called "Civil Rights" law) stipulates that it is not to be used for the sole purpose of overcoming an uneven racial "mix." The Congress made this abundantly clear, and any effort to overcome some percentage "mix" that the bureaucrats find displeasing, has absolutely no legal justification, but rather is done because of bureaucratic edict. Again, this pertains to *you* and to *your school district.*

When you are not protected by *law* but are at the mercy of the whims of bureaucrats, you will never be able to move into a neighborhood "of your choice" without fearing that the Feds will demand that your child be taken and amalgamated in some predetermined mix.

Despite its knowledge of the law, the South had to bend to the whip. Federal Courts held that they had to advise each and every pupil that they had complete "freedom of choice" and, irrespective of where they lived, they could go to any school they wished to attend, anywhere in the city, county (parish), school district. Quite literally, the districts were compelled to spend the taxpayers' money to run ads in the local press. They told the children of their "rights" and even pitted the child against the parent. The child was told that, if sixteen, it didn't matter what its parents said, the school district (under a federal judge's orders) would take the child to any school he wished to attend.

I watched it happen. My children were in school in Caddo Parish, Shreveport, Louisiana, and I saw the ads; saw the notes sent home to the parents; and I saw the children—both black and white—show more sense than the bureaucrats.

They stayed in their own schools, almost without exception and this happened in State after State. The bureaucrats were beside themselves with anger because they were defeated in their desire for a percentage "mix." They had bet their "everything" on the "freedom of choice" basis on which the federal courts ordered the school boards to operate. It was a genuine choice, only the kids showed some sense.

Now, a year later, we are watching naked power at work as the "Feds" attempt to punish southern school districts. They are now *demanding* that they take a certain number of negro children and put them in a certain school, and another certain number of white children and put them in a school that had been all black. Suddenly, the South has had a "belly full" to put it crudely, and they are about ready to fight back. The *tragic* part is that the "hidden hand" has been after this. The "hidden hand" is not interested in the education of the children. *It wants the white man enslaved in his own land.*

Now several things are relevant. My next point is uniquely my own, as far as I know, but it is the essence of why the "West" cannot understand the problem that exists in the South. It has to do with "neighborhood" concepts.

Most of us know what "block-busting" is. This is accomplished when a realtor sells a house in an all-white neighborhood to a black. Thereafter, the rest of the whites flee (to the suburbs) and suddenly an entire neighborhood is black. This is the existing pattern in principal cities in the West, the North, the Middle-West. Virtually without exception, when a neighborhood is "busted", it goes fast. Why? Because *the two races cannot live in harmony with each other!* This is not opinion but proven fact. Everyone knows it except the bureaucrats.

This is not the pattern in the southern states, and this is why there is no comparable neighborhood concept. This is why the concept of "the other side of the tracks" doesn't operate in the South as it does in the North,

Central and the West. It has to do with the historic relationship between the two races.

Let's be frank. The white man employed the negro as a menial throughout the southern states. The white man lived in the "big house" and the negro lived in a small one, only—and this is the vital heart of the matter—the black man's home was either on the white man's property, or just around the corner. It was not "on the other side of the tracks."

The two races did—and do—live in close proximity, and very significantly, show a mutual respect. This is not based on a concept of "equality" but of mutual regard. For instance, Mrs. White employs Mrs. Black. She knows of Mrs. Black's children, her husband, her problems, and she takes a personal interest in them. She may also hire Mr. Black. At Christmas, there's a present for every member of the Black family, and in times of sickness, there are house calls and doctor's visits and Mrs. White spares no expense. She assumes a measure of *responsibility* toward Mrs. Black. Occasionally, condescending, it is still better than ignoring them, and that is the relationship that generally exists between the races in, let us say, the far West.

In some ways, the Southerner is strange in his attitude toward the negro, the classic example being the southern gentlewoman who tells of being nursed by a negress (a wet nurse). According to their code, this is not a "social" contact, and with that word we run into a hornet's nest.

The Southerner *will not tolerate* interracial social contacts, and to the Southerner, school is a "social" contact! Let's face it, kids do swim together, eat together, and dance together. All of this is too much for the Southerner. Nor can he understand how anyone anywhere in the Nation can view this with indifference. The Southerner will employ the negro, and does so, ten to one over his northern or western counterpart. And no longer are the negro's tasks only menial ones in the South.

While we lived in the South, Mary came in one day a week to iron and clean the house, leaving it spick and span. One of Mary's children is a doctor, and at least three have gone through college. Also, once a week, Ed, our gardener, took care of our yard. He made a good living and would work only for those he chose to work for. What he did for me he did on contract. He owned a number of houses which he kept up beautifully. He was a deacon in his church which was having a $100,000 fund-raising while we lived there, and he "hit me" for a contribution. He had a quota to fill and he did—with the help of his white friends for his all-black church.

But let me stick to facts. The very closeness of the relationship between the races—outside of social contact—is the very reason why they cannot segregate themselves on a neighborhood basis as is done everywhere else in the nation. They live too close. In the South, there were neither all-white or all-black communities. Small sections of blacks' homes are located near the homes of whites, where they earned their living. There are no distinct patterns. This is why school districts cannot be altered, as in the North, to include or exclude "black communities." The two races live too close.

Yet there is a world of difference between the standards, the morals, the beliefs, and the habits of the two races. To take children from these two differing household backgrounds and put them together in a classroom really doesn't make sense.

Are we trying to make the negro child hate the white? Do we want him to go to his momma and *demand* that brand new bike? Do we want him to learn that somehow he doesn't seem able to learn at the same rate as the white children? Are we trying to truly educate our children, to utilize every ability they possess, whether black or white?

Our own government, in saner moments, has recognized that the two races do not learn at the same rate, nor for that matter, neither do the same teaching tools apply. Are we to hold back the bright student whose only fault is being white and bright? Or are we going to build the best schools we can afford; hire the best teachers that can be hired; and do our level best to help *all* children attain whatever they are capable of attaining? That is what the South is determined to accomplish and it can accomplish it—if the bureaucrats will get off their back.

The South was in virtual economic bondage for one hundred years following the Civil War and during the subsequent carpetbaggers' raids. Their schools were poor, by most standards, but they have been improved. Furthermore—and this is fact, not opinion—generally speaking, the newer schools are *negro* schools while the white child takes what's left. There is a sound reason for this.

As the pressure grew for "separate but equal" schools (with emphasis on the equal) the white Southerners voted—and paid for—the bonds to build new schools for the blacks, just as they vote for bonds to build hospitals to care for indigent blacks. So they evidence their regards for the blacks, but, with very few exceptions, the negro lives in a world apart from the white. Even the children—with very few exceptions—know better than to try to integrate the schools.

Yet now the courts, having learned that "freedom of choice" won't accomplish their desired "racial mix", are demanding—completely without any law to back it up—a certain "mix." They are taking children from their parents and sending them to schools they do not wish to attend. They are destroying the southern school system, and I say it is being done with evil intent.

At this moment, the negro children are showing a great deal of sense. They are demanding to be allowed to return to their own negro high schools; demanding to be allowed to go to school with their own brothers, sisters, and friends. Doesn't that make sense?

Narrow this down to the individual. The negro child has always been taken in a certain bus (or he walked) to the school where he met his friends. He is, or will be, on the football team, or the swimming team, or what have you, and he will *compete* for recognition among his classmates and friends. He also undoubtedly has a girl friend—or friends. He is *not* in school for the purpose of fulfilling any bureaucrat's concepts.

He may even be a little selfish in his thinking. His big brother was on the football team at "Lincoln High", and he wants to follow in his footsteps. Furthermore, the big game of the year is against "Carver High" and this is the dream-stuff that kids are made of and it makes no sense to take it away from them, be they black or white.

The South is still hoping to prove, through an orderly process of law, that anything beyond "freedom of choice" is not only unconstitutional, but *must be prohibited by the courts*. Senator Thurmond, for example, has "read between the lines" and feels that the present administration is really moving the matter out of the hands of HEW and into the "Justice" Dept. and from there it will find its way to the courts. Obviously, it is of *vital* importance to see that the new appointees to the U.S. Supreme Court are Constitutionalists. This is going to be an earth-shaking decision; could well take years; and the South is working toward it. In the meantime, however, they will *resist*, with all the power at their command, any bureaucratic edict.

Miracle of miracles, the nation's press is giving full coverage to the fact that it is the negro children (in Louisiana) who are demanding that they be allowed to return to their own schools and to their friends.

A great deal could be accomplished if citizens across the land would write to their own senators and congressmen, and to the White House as well, letting them know that they are in sympathy with the South, and that "freedom of choice" is the American way. What Conservative Viewpoint fears is that, through the seeming indifference of the North, the Central States, and the far West, the bureaucrats will gain strength through our silence.

PRESIDENT NIXON'S ADDRESS AT THE MEETING OF THE INTER-AMERICAN PRESS ASSOCIATION

(Mr. ADAIR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ADAIR. Mr. Speaker, on Friday evening it was my privilege to be present at the meeting of the Inter-American Press Association, when President Nixon addressed the association on, "Action for Progress for the Americas."

Mr. Speaker, I was greatly impressed by the President's speech which was, in my opinion, carefully considered, well presented, and appreciatively received.

The President's speech was a strong speech. It was an honest speech. It did not promise the moon, but it did promise that a nation that could go to the moon would work with our neighbors here on earth.

I feel that the President should be commended for his forthright and constructive approach—an approach that emphasized the concept of partnership between North and South America. Another strength in my opinion, was the fact that he did not make too many concessions in advance of further negotiation.

Mr. Speaker, it seems to me that the President's speech points the United States toward a new era in its relations with the Americas. As the President said:

> For years, we in the United States have pursued the illusion that we could remake continents.

But our experience has taught us better.

What we can hope to achieve, as the President said, "is a more mature partnership in which all voices are heard and none is predominant—a partnership guided by a healthy awarness that give-and-take is better than take-it-or-leave-it." I think the President made clear that "we do care" and I believe that from his address will come a new and more constructive partnership.

ESTABLISHING A NATIONAL DEVELOPMENT BANK

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 30 minutes.

(Mr. PATMAN asked and was given permission to revise and extend his remarks and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, congressional promises of a decent home, a suitable living environment, and full em-

ployment have been turned into empty phrases by the high-interest, tight-money conditions that grip the Nation's economy.

We promised to see to it that 26 million new and rehabilitated housing units were provided for the people of this Nation in 10 years—an average of 2.6 million units a year. Instead, we are providing housing at a rate of only 1.5 million units a year, little more than half the volume required to meet the national housing goals so enthusiastically adopted last year by Congress. Those housing goals, rather than standing as a measurement for achievement, have come to represent the failure of the Nation, and its Government to provide decent dwellings for our citizens—especially for the low- and moderate-income families of the country, the people whose need is the greatest and who suffer the most from inadequate housing. Whether we will admit it or not, this Nation is suffering from a housing recession. This is exemplified by the fact that construction of low-income housing has decreased by 70 percent, that present interest rates are now costing the owners of $20,000 homes more than $32,000 in interest alone during the term of their mortgages, that interest rates are now at maximum legal ceilings in a number of States with the result that sources of mortgage funds have all but dried up.

SYSTEM BREAKDOWN

Other symptoms of a breakdown in the system include a Federal Housing Administration report that only 55 percent of its regional offices have access to an adequate supply of funds for FHA-insured mortgages. Savings and loan associations, which finance nearly half of all residential mortgages in the country, gained $2.1 billion in new savings during the first 8 months of the year compared to a level of $3.2 billion last year. The Housing and Urban Development Department is reported to be working on plans to make a subsidy payment of 1 percent to securities dealers to market HUD's short-term notes used to finance public housing and urban renewal projects which in turn means that State and municipal governments will have to offer higher interest rates on their obligations.

Clearly we are being strangled by rampant interest rates, which are pricing people out of the housing market and destroying the housing industry.

Mr. Speaker, these are symptoms of a housing crisis that should not exist at all and must not exist any longer if the people of the Nation are to retain faith in the ability of our democracy to meet their needs. This is no generalization. Our ability to finance and construct housing presents a poor comparison to the accomplishments of Russia which has given housing the priority status it deserves. While we are producing housing at a rate of 1.5 million units a year, Russia is producing more than twice that volume, 3.25 million units a year. While we are building 30 apartments a day in Washington, Russia is building 300 a day in Moscow.

AND NOW UNEMPLOYMENT

Employment is following housing in a downward spiral. Last month the unemployment rate reached 4 percent, reflecting the largest single increase since the beginning of the decade, bringing total joblessness to 3.2 million persons. And the end is not in sight. Henry C. Wallich, senior consultant to the Secretary of the Treasury, estimated unemployment will climb to 5 percent by the end of next year and economist Milton Friedman, a campaign adviser to the President, estimates it will go to 7 percent or higher. If it does, nearly 6 million people will be out of work and the recession in housing will have spread throughout the Nation's economy.

These figures first of all represent a tragic, needless worsening of conditions for those of our people who are trapped by lack of education. Lack of skills, and lack of opportunity in depressed urban and rural areas. Almost all of those who make up the total of 3.2 million unemployed live in these areas. Our crisis in housing and the growing rate of unemployment are centered on the unmet needs of these people. We cannot truly begin to answer the housing and employment requirements of the Nation until we successfully respond to the problems of these people and provide them with the opportunities they deserve and must have.

I wish it was possible to say that the legislation many of the present House Members helped develop and support during the last 8 years had moved us a long way toward providing adequate housing, education, and job opportunities for all of our people. High interest and tight money conditions have made that impossible. High interest and tight money conditions have brought us to a point where we are producing less housing than in recent years—brought us to the point where the unemployment rate has climbed to the level of 2 years ago and may very likely go to a recession level unless the necessary investment funds are made available on reasonable terms to State and local governments, to small and moderate size businesses and industries, and for loans for the construction and purchase of homes.

PROGRAM CUTBACKS

High-interest, tight-money policies have prompted the administration to cut back on many of its own programs. Among other things, Federal construction has been reduced 75 percent, some $215 million is being held out of the model cities program, at least $2 billion is going unused in the Government National Mortgage Association fund for special assistance for low- and moderate-income housing, Federal grant funds for water and sewer systems have all but disappeared. The effect on State and local governments has been even more drastic. Literally billions of dollars worth of bonds to build schools, hospitals, roads, and other public facilities have been withdrawn from the market because maximum legal interest rate ceilings on these securities were less than the rates being demanded on Wall Street. Clearly, this is a description of disaster in the making.

Particularly so when the gouging effect of these same high-interest-rate money policies on small- and medium-size businesses and industries is realized. Five successive increases in the prime rate in less than a year have placed such firms under a tremendous burden in terms of the cost of money which they must borrow in order to stay in operation. The present unconscionable 8½-percent prime rate to the big, low-risk borrowers of large commercial banks means that all other business and industrial borrowers must pay much more than that for their loans—12 or 13 percent and more in some cases. These exorbitant interest rates in turn drastically reduce the ability of these firms to compete in the marketplace. They either have to cut back expenditures in important areas or raise prices or both. The result is that fewer jobs are available and the cost of goods for everyone soars.

AN ANSWER

Mr. Speaker, in answer to these problems, I am today introducing a bill which is designed to provide some of the resources that present economic policies and the conditions stemming from those policies are withholding from those in desperate need. This measure would create a development bank for the Nation with a potential to make direct loans as well as guarantee loans made by conventional lending institutions to finance low- and moderate-income housing, employment opportunities for those who are unemployed or have low incomes, and public facilities for depressed urban and rural areas. It would be initially capitalized with $1 billion in stock subscribed to the Federal Government, have a debt limit of 20 times that amount, and make or guarantee loans at 6-percent interest. To some extent, the Bank is patterned after the Reconstruction Finance Corporation which performed so well to bolster the Nation's economy and help the people during the 1930's and 1940's.

Specifically, the Bank will make or guarantee loans for—

Housing under the insured and guaranteed low- and moderate-income housing programs of the Department of Housing and Urban Development, the Veterans' Administration, and the Farmers Home Administration;

Public facilities to meet social, health, education, transportation, and other needs in depressed urban and rural areas;

Improvement, expansion, and establishment of businesses and industries providing employment opportunities at adequate wage rates for unemployed and underemployed persons;

Supporting public facilities required by businesses and industries; and

Promoting private investment in such projects and facilities.

Mr. Speaker, it is my conviction that this bill not only will help to provide urgently needed resources for depressed urban and rural areas, but will show the way for the administration and the private sector to truly respond to the needs of the people by making available ade-

quate funds at reasonable rates. We cannot house the people without building houses. We cannot educate them without building schools. We cannot have employment opportunities unless business and industries can obtain the capital they need at reasonable prices. This bill will help to do these things. It is a beginning.

Mr. Speaker, the full text of my development bank bill follows:

H.R. 14639

A bill to establish a Development Bank to aid in financing low and moderate income housing, employment opportunities for unemployed and low income citizens and public facilities in certain urban and rural areas

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

SHORT TITLE

SECTION 1. This Act may be cited as the Development Bank Act.

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that inflation and high interest-tight money policies are making it impossible to meet the national housing goals for low and moderate income families, and provide urgently needed public facilities and employment opportunities for those Americans trapped in depressed urban and rural areas by circumstances over which they have virtually no control. Accordingly, the Congress finds it necessary to establish a Development Bank to provide credit on reasonable terms and technical assistance for:

(1) Low and moderate income housing;

(2) Public facilities to meet social, health, and educational, transportation and other needs in depressed urban and rural areas;

(3) Improvement, expansion and establishment of businesses and industries providing employment opportunities at adequate wage rates for unemployed and underemployed persons;

(4) Supporting public facilities required by such businesses and industries;

(5) Promoting private investment in such projects and facilities.

DEFINITIONS

SEC. 3. (1) The term "low and moderate income" shall be identical to definitions made by the Secretary of Housing and Urban Development in establishing criteria by which families qualify for occupancy of dwellings supplied under the low and moderate income rental and home ownership programs of the National Housing Act.

(2) The term "public facility" means the structures and equipment owned and operated by State and local governments to provide medical, social, educational, transportation and other services.

(3) The term "supporting public facilities" means those facilities which are usually publicly owned and are necessary for the operation of businesses and industries, such as roads and sewer and water systems.

(4) The term "depressed urban and rural areas" means those areas which may be designated without regard to political boundaries by the Secretary of Labor, the Secretary of Commerce and the Director of the Office of Economic Opportunity on the basis of the most recent appropriate annual statistics for the most recent available calendar year, as having a rate of unemployment of at least 6 percent for the preceding calendar year, or a high rate of underemployed persons whose income does not exceed the level of poverty as that level has been established by the Department of Health, Education and Welfare, or where pending loss of business or industry is expected to produce such conditions, or those areas characterized by substantial outmigration resulting from the lack of job opportunities, or those areas suffering from other conditions which in the judgment of the board of directors of the Bank qualify them for assistance under the provisions of this Act.

(5) The term "adequate wage" means a wage which shall not be lower than whichever is highest; (a) the minimum wage under the Fair Labor Standards Act of 1938, (b) the minimum wage set by State or local governments, (c) the prevailing rate of wages in the area for comparable work.

(6) The term "effective interest rate" means the total amounts paid on a loan for interest, commissions, bonuses, discounts, premiums and other similar charges.

ESTABLISHMENT

SEC. 4. There is created a body corporate to be known as the Development Bank (referred to in this Act as the Bank). No loan may be made by the Bank unless the borrower is unable to obtain funds on reasonable terms from other sources.

BOARD OF DIRECTORS

SEC. 5. The management of the Bank shall be vested in a Board of Directors consisting of the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Labor and ten other persons who shall be appointed by the President with the advise and consent of the Senate. Of the ten persons so appointed, one shall be an elected or an appointed official of a State government, one shall be an elected or appointed official of a local government. All of the other persons so appointed shall be from the private sector. Two shall be from among representatives of organized labor, two shall be from among representatives of business and finance, two from among representatives of social welfare organizations dealing with the problems of low income urban residents and two shall be from among representatives of rural organizations dealing with economic and social problems of depressed rural areas. The terms of directors appointed by the President shall be two years, commencing with the date of enactment of this Act. Any director appointed to fill a vacancy shall be appointed only for the unexpired portion of the term. Any director may continue to serve as such after the expiration of the term for which he was appointed until his successor has been appointed and has qualified.

APPOINTMENT OF OFFICERS AND EMPLOYEES

SEC. 6. The Board of Directors of the Bank shall appoint a president of the Bank and such other officers and employees as it deems necessary to carry out the functions of the Bank. Such appointments may be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and persons so appointed may be paid without regard to the provisions of chapter 51 of subchapter III of Chapter 53 of such title relating to classification and General Schedule pay rates. The president of the Bank shall be an ex officio member of the Board of Directors and may participate in meetings of the board except that he shall have no vote except in case of an equal division. No individual other than a citizen of the United States may be an officer of the Bank. No officer of the Bank shall receive any salary or other remuneration from any source other than the Bank during the period of his employment by the Bank.

CONFLICT OF INTEREST

SEC. 7. (a) No director, officer, attorney, agent or employee of the Bank shall in any manner, directly or indirectly, participate in the deliberations upon or the determination of any question affecting his personal interests, or in the interests of any corporation, partnership, or association in which he is directly or indirectly personally interested.

(b) The Bank shall not engage in political activities nor provide financing for or assist in any manner any project or facility involving political parties, nor shall the directors, officers, employees or agents of the Bank in any way use their connection with the Bank for the purpose of influencing the outcome of any election.

GENERAL CORPORATE POWERS

SEC. 8. Except to the extent inconsistent with the provisions of this Act, the Bank shall have the general corporate powers of a corporation organized and existing under the laws of the District of Columbia.

PRINCIPAL OFFICE; BRANCHES

SEC. 9. The principal office of the Bank shall be located in the District of Columbia, and it may establish agencies or branch offices in any city of the United States.

CAPITAL STOCK

SEC. 10. (a) The Bank shall have capital stock of $1,000,000,000, subscribed by the United States, payment for which shall be subject to call in whole or in part by the Board of Directors.

(b) The Secretary of the Treasury is authorized to, and upon request of the Board of Directors shall, purchase stock in amounts designated by the Board of Directors up to a total of $1,000,000,000.

BORROWING AUTHORITY

SEC. 11. (a) The Bank may issue notes, debentures, bonds and other evidences of indebtedness in such amounts and on such terms and conditions as the corporation may determine subject to the limitations prescribed in this Act.

(b) The aggregate outstanding indebtedness of the Bank under this section at any time may not exceed twenty times the paid-in capital stock of the Bank at that time.

(c) The obligations of the Bank under this section shall be fully and unconditionally guaranteed both as to interest and principal by the United States and such guarantee shall be expressed on the face thereof.

(d) In the event that the Bank is unable to pay upon demand, when due, any obligation under this section, the Secretary of the Treasury shall pay the amount thereof and thereupon to the extent of the amount so paid by the Secretary of the Treasury shall succeed to all the rights of the holder of the obligations.

PURCHASE OF ASSETS BY TREASURY

SEC. 12. The Secretary of the Treasury is authorized to purchase from the Bank any asset of the Bank at such price as may be agreed upon between the Secretary and the Bank.

DISCOUNT BY FEDERAL RESERVE BANKS

SEC. 13. (a) The several Federal Reserve banks are authorized to purchase or discount any note, debenture, bond or other obligation, secured or unsecured, held by the Bank.

(b) Obligations of the Bank are eligible for purchase by the Federal Reserve Open Market Committee.

INVESTMENT STATUS OF OBLIGATIONS OF BANK

SEC. 14. All obligations issued by the Bank shall be lawful investments for, and may be accepted as security for, all fiduciary, trust and public funds the investment or deposit of which is under the authority or control of the United States or of any officer or officers thereof.

LOANS FOR LOW AND MODERATE INCOME HOUSING

SEC. 15. (a) The Bank may make or guarantee loans for the purchase of low and moderate income housing under the insured and guaranteed loan programs of the Department of Housing and Urban Development, the Veterans' administration, the Farmers Home Ad-

ministration of the Department of Agriculture and for military housing under sections 809 and 810 of title VIII of the National Housing Act.

(b) The Bank may make or guarantee loans to developers, contractors, subcontractors and other persons to finance the construction of low- and moderate-income housing under the insured and guaranteed loan programs of the Department of Housing and Urban Development, the Veterans' Administration, and Farmers Home Administration of the Department of Agriculture and for military housing under sections 809 and 810 of title VIII of the National Housing Act.

(c) Loans made under (b) of this section shall not exceed an effective interest rate of 6 per centum per annum or the discount rate of the Federal Reserve System, whichever is lowest, or a lesser rate of interest established by the board of directors of the Bank.

LOANS FOR COMMUNITY DEVELOPMENT

SEC. 16. (a) The bank may make or guarantee loans or purchase obligations to finance capital expenditures for public works, community facilities, land for housing development, public transportation and similar community facilities, such projects and facilities to be in keeping with comprehensive area land use plans where such plans exist, providing that such facilities and projects are of direct and substantial benefit to residents of urban slum and depressed rural areas, or provide other benefits specified by the Bank to carry out the purposes of this Act.

LOANS TO COMMERCE AND INDUSTRY

SEC. 17. (a) The Bank may make or guarantee loans for the purchase of real and personal property, for working capital and for training purposes to assure that existing businesses and industries have adequate funds and skilled manpower resources to compete in the marketplace for establishment of new businesses and industries providing that—

(1) borrowers agree to fill a specified number or job openings to be determined by the Bank with people who, prior to such employment, were unemployed and underemployed;

(2) or borrowers agree to conduct training courses for a specified number of unemployed and underemployed persons to be determined by the Bank with the result that these persons will, within a period of time to be determined by the Bank, be employed full time by the borrower.

(3) or borrowers agree to other requirements laid down by the Bank to carry out the purposes of this Act.

LOANS FOR SUPPORTING PUBLIC FACILITIES

SEC. 18. (a) To carry out the purposes of this Act, the Bank may make or guarantee loans or purchase obligations to finance the purchase or construction of roads, sewer and water systems, power and similar facilities necessary for the operation of businesses and industries or the operation of public facilities providing social, health, welfare, educational and other services to residents of urban slum and depressed rural areas.

(b) The effective interest rate for such loans shall not exceed 6 percentum per annum or the Federal Reserve discount rate, whichever is lower, or a lesser rate established by the board of directors of the Bank.

TECHNICAL AND OTHER ASSISTANCE

SEC. 19. The Bank may provide to borrowers whatever assistance, technical or otherwise, it considers necessary to protect its investment and to carry out the purposes of this Act.

(b) The Bank shall assign an adequate number of staff members.

(c) To assure fulfilling the purposes of this Act, the Bank shall direct an adequate number of staff members to seek out and confer with representatives of State and local governments, public agencies, nonprofit private organizations, companies, corporations, partnerships and individuals, in order to provide information about the services furnished by the Bank and to provide whatever assistance is necessary for utilization of such services.

(d) To meet other requirements laid down by the Bank to carry out the purposes of this Act.

SECURITY REQUIRED

SEC. 20. The board of directors of the Bank shall make whatever arrangement it considers adequate to secure loans made by the Bank.

MAXIMUM MATURITY

SEC. 21. (a) Each loan made by the Bank to a lending institution may be made for a period not exceeding five years, and the Bank may from time to time extend the time of payment of any such loan, through renewal, substitution of new obligations, or otherwise.

(b) Each loan made by the Bank to any State or local government may be made for a period not exceeding twenty years, and the Bank may from time to time extend the period of payment.

(c) Each loan made by the Bank to any private corporation, company or individual may be made for a period not exceeding ten years, and the Bank may from time to time extend the period of payment until the loan is retired or until the loan is refinanced through another lending institution and the borrower's obligation to the Bank is erased.

PRESIDENT NIXON'S LATIN AMERICAN ADDRESS

(Mr. ANDERSON of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ANDERSON of Illinois. Mr. Speaker, I was frankly impressed by the Latin American policy speech given by President Nixon last Friday night. For those expecting a new set of high-sounding promises it was probably a disappointing speech. For those expecting candor and realism it was a satisfying departure from the extravagant rhetoric we have heard from others in the past. In the President's words:

> I offer no grandiose promises and no panaceas. I do offer action.

The President talked of "action for progress" in the Americas predicated on "a more mature partnership in which all voices are heard and none is predominant." That type of partnership is possible today because we have learned some valuable lessons from our early attempts at development assistance. The President made a very frank observation regarding this earlier approach:

> For years, we in the United States have pursued the illusion that we could remake continents. Conscious of our wealth and technology, seized by the force of our good intentions, driven by habitual impatience, remembering the dramatic success of the Marshall Plan in postwar Europe, we have sometimes imagined that we know what was best for everyone else and that we could and should make it happen.

The President has correctly pointed out that if our efforts are to have real developmental impact, they must reflect a basic respect for the national identity and national dignity of the recipient countries. This is vital to a truly workable and effective partnership. The President points to the need for a shift to multilateralism in treating inter-American problems.

An editorial in Sunday's Washington Post made the following observation:

> Doubtless, the Alliance for Progress was too ambitious; surely it was oversold and the Washington emphasis in it too overbearing.

To facilitate the shift from paternalism to partnership, the President has proposed a multilateral, inter-American agency begin to play a larger role in development assistance decisionmaking. It may be that the existing Inter-American Committee for the Alliance for Progress can assume this responsibility.

The President has also outlined several new trade initiatives to assist the Latin American nations in expanding their imports. Included among these would be a vigorous effort to reduce nontariff barriers against products of particular interest to Latin countries; and pressing in world trade forums for a liberal system of generalized tariff preferences for all developing countries.

The President has also promised to free AID loan funds to be spent anywhere in Latin America, not just in the United States. And the President has also promised to review all other onerous restrictions and conditions placed on our assistance loans with a view to modifying or eliminating them.

Mr. Speaker, there are those who will criticize the President for not making bigger and better promises than his predecessors and for not presenting a more detailed American blueprint for Latin American development. This criticism is understandable from those who persist in their "Big Brother knows best" approach to our Latin neighbors. They are not capable of perceiving the hypocrisy in advocating both an American blueprint and a true partnership. The time has come to break from the mentality of the sixties which permitted us to impose our ideas on other nations.

Let us approach the second decade of development armed with the lessons of the past and a rededication to assisting in the development of the third world. President Nixon has reminded us:

> Progress in our Hemisphere is not only a practical necessity but a moral imperative.

At this point in the RECORD I include an editorial which appeared in the Sunday, November 2, New York Times, under the heading, "Modest Steps for the Americas":

MODEST STEPS FOR THE AMERICAS

After nine months in office, President Nixon has made a beginning on a policy for Latin America. It is a modest program, but it does commit the United States anew to a special relationship with the nations of its own hemisphere and it binds this Administration to the principles and compacts of the inter-American system.

If there is nothing really new in the proposals Mr. Nixon made before the Inter-American Press Association, he has at least taken several positive first steps. And there was a good case for reserving the details of the Administration's position on social and economic policy for the important negotiations later this month at the Organization of American States.

It was refreshing to hear a President say that experience has taught the United States it cannot "remake continents" and does not

invariably know what is best for others. Mr. Nixon's projection of a more balanced hemisphere partnership, "In which the United States lectures less and listens more," matched exactly the tone taken by twenty-one Latin governments in the Consensus of Vina del Mar last May.

In this connection no step could be more important—for making the United States role less pervasive and less abrasive, for encouraging Latin initiatives and for enhancing the Organization of American States—than to turn over responsibility for dispensing economic development aid to an inter-American agency. Mr. Nixon has moved cautiously toward this kind of multilateralism; his suggestion for giving the job to an expanded Inter-American Committee for the Alliance for Progress (C.I.A.P.) is excellent.

So is the President's decision to subject United States economic policies and practices to a periodic check-up by C.I.A.P. to determine their effect on other hemisphere countries. This has always been required of all other members of the Alliance for Progress. Another major forward step will be taken if Mr. Nixon makes good his promise henceforth to consult the Latins in advance on all decisions on trade policy that affect them—a step that will require greater coordination than ever before among Federal departments and agencies.

In two other important areas, the Nixon advances were considerably more modest than many had expected. He repeated the promise made by President Johnson at Punta del Este in 1967 to press in world-trade forums for generalized tariff preferences for all developing countries; but he stopped short of pledging that the United States would unilaterally adopt such a system for a trial period if other industrial nations failed to agree.

With considerable flourish, Mr. Nixon announced the scrapping of the requirement that American loans to hemisphere nations be used only for purchases in this country. But he untied this aid money only to the extent of allowing it to be spent "anywhere in Latin America," rather than anywhere in the world, as the Latins had requested.

Mr. Nixon's proposed upgrading of the Assistant Secretary of State for Inter-American Affairs to Under Secretary reflects an Administration conclusion that the United States willy-nilly has a special relationship with its hemisphere neighbors. But only time will determine whether this move brings better coordination to Washington's Latin-American activities.

Many will be disappointed that the President accepted as a necessity the concept of dealing on an equal basis with democracies and dictatorships in the hemisphere. But even many Latin democrats accept this as a realistic policy and prefer it to unilateral Washington experiments in social engineering.

Why Mr. Nixon took so long to come up with a basic policy for an area in which he claims special competence remains a mystery. However, if he can now follow through with, and expand on, the modest advances he has projected, the time lag will not be of crucial importance. At least, the President emphatically has not disengaged this country from the inter-American family and the collective machinery built up over many years to sustain it.

GAY IS GOOD—SODOM AND GOMORRAH III

(Mr. RARICK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RARICK. Mr. Speaker, a recent feature article in the leftwing Washington Post, followed in a few days by an approving editorial comment, heralds another project to destroy the fabric of the Nation.

We have seen a consistent and constant attack by the left on all of the values which built this Nation to a civilized power. The family, being in the way of socialist revolution, is scheduled for destruction.

The trumpets blow in support of abortion, marihuana, atheism, sedition, and sexual perversion. A task force of the National Institutes of Health has just released its report, lauded in these articles, approving of homosexuality and recommending that the taxpayers provide the money to conduct a study of this particular perversion for the purpose of giving it social approval.

I include the clippings to which I refer as part of my remarks, and commend to the attention of all Americans an important, but often overlooked portion of our Judeo-Christian heritage, Leviticus 18: 22–30, and 20: 13.

[From the Washington Post, Oct. 25, 1969]

GAY IS GOOD—HOMOSEXUAL REVOLUTION

(By Nancy L. Ross)

In October of last year, 65 professional people gathered in San Francisco for a symposium sponsored by the Council on Religion and the Homosexual. For three days, teachers, clergymen, psychiatrists, lawyers and anyone else interested listened to homosexuals describe not only their personal and social problems, but also their lifestyles.

Each evening after the sessions, the homosexuals took the group out on the town to restaurants, bars and cinemas where they had a chance to see gay life in action; couples of the same sex dancing together, male go-go dancers and strippers, female impersonators, and films showing nude homosexual lovers.

"You don't just show somebody a homosexual in a gray flannel suit and say this is it; we wanted the straights (heterosexuals) to see everything," declared an organizer. The symposium received such favorable reaction from participants that it was repeated and will be held for the third time next month.

In September of this year, the Gay Liberation Front picketed the Village Voice in New York to protest the use of what they considered derogatory terms referring to them in editorial copy and the refusal (temporary, it turned out) of the newspaper to use the words "gay" or "homosexual" in classified ads.

The demonstration followed by less than two months a riot by 500 homophiles (homosexuals and sympathizers) protesting a police raid on a gay bar in Greenwich Village, and present sodomy laws. Crying "Gay Power to Gay People" and singing "We Shall Overcome," they threw firebombs and bricks at police. There were no wholesale arrests or reprisals. The militants vow to continue.

Though few Americans heard of these incidents and fewer still participated, their significance should not be overlooked. Together they illustrate, on the one hand, the new openness, and, on the other, the new militancy on the part of homosexuals, who call themselves America's second largest minority group, estimated at anywhere between eight and 15 million men and women. (Of course the great majority, as in any other group, continue to lead their own private, and often in this case secret, lives without getting involved in causes.)

Taking their cue from the black revolution, militant leaders are using the same tactics to obtain justice, equality and power for homosexuals. Others, taking advantage of our permissive society, seek to bring out into the open a subject formerly as taboo as abortion and birth control. (The codeword "gay," first used in the '20s, is a reminder of days when "homosexual" was scarcely mentionable in public.)

As among black leaders, controversy has developed within the ranks of homosexuals as to best method of achieving their ends. San Francisco's Leo Laurence, an avowed militant, revolutionary homosexual, has allied himself with organizations like the Black Panthers. Jack Nichols, managing editor of New York's Screw magazine, suggests, instead, peaceful protests such as a subway kiss-in and a dance-in to integrate straight night clubs. The latter technique was tried successfully this fall at the Electric Circus in Greenwich Village.

Come Out!, "a newspaper by and for the gay community," in its first issue, dated Nov. 14, 1969, castigates Gay Power, a New York paper run largely by nonhomosexuals for trying to "cash in on the new interest in homosexuality via the new freedom of the press." Come Out charged that in one issue Gay Power had attacked well-known homosexuals by name in print, endorsed Mafia-run bars in New York and included "borderline" pornography.

The Advocate, a Los Angeles homophile paper, condemns brashness as well as violence and even cautions against "the implications of alliance with nonhomosexuals whose already poor image can do more harm than the temporary gain of a few people on a picket line."

While it is true public protests by homosexuals originated in Washington in 1965 with picketing the White House, the Pentagon, the State Department and the Civil Service Commission, there is as yet no militancy here of the New York or Los Angeles ilk. The gay community has better relations with the police than in those cities, Washington retains a large measure of conservatism inimical to homosexuality. And, just as important, homosexuals employed by the government fear to declare themselves lest they lose their jobs.

Homosexuality in the nation's capital remains largely underground, but an increasing number of cracks have appeared in the earth's surface.

Society's awareness, though not necessarily its tolerance, of homosexuality has grown, due in part to the spate of movies and plays on the subject in the past two years. Homosexuals complain that plays like the off-Broadway hit, "The Boys in the Band," do more harm than good by presenting stereotype gays—limp-wristed, mincing, effeminate types out to destroy themselves and everyone else. The reaction gap between gays and straights to these plays is further illustrated by a new one entitled "And Puppy Dog Tails." This is the first play to depict *happy* homosexuals, showing affection toward one another. It received raves from gay reviewers, but was panned by New York Times drama critic Clive Barnes as having an unbelievable plot as well as poor writing, construction and characterization.

The release this week of the National Institute of Mental Health's report recommending the repeal of laws against homosexual acts between consenting adults in private and reassessment of bans by employers against hiring homosexuals comes at a time when, despite the new permissiveness and concern for minorities, two out of three Americans, according to a CBS poll, still regard homosexuals with "disgust, discomfort or fear."

Were these reforms to be effected, "it would be the millenium," commented a homosexual.

Until now, nearly all of his new freedoms—and there have been many in the past two or three years—have been extra-legal. An admitted homosexual still cannot get U.S. government security clearance, serve in the army or, with one exception, the civil service. In a precedent-setting move, New York

City abolished this last prohibition in May of this year.

This past spring, a Los Angeles homophile group put up its own candidate for City Council (he lost). And, for several years, politicians have accepted invitations by homosexual groups to address them and, in some instances, accept their active support.

The Bay Area's Film Festival this month featured the first gay all-male nude film made by Pat Rocco, a pioneer in that genre. Los Angeles ran its second annual Groovy Guy beauty contest this summer with males parading in tight blue jeans and briefs. The Metropolitan Community Church in Los Angeles, founded last fall by a gay preacher for gays, now has a congregation of several hundred.

Activities of this nature remain unthinkable in Washington, at least for the present, in the opinion of many people. For instance, the gay community, in the metropolitan area, which is said by members to range from 100,000 to 250,000 (including married persons whose primary sexual preference runs toward homosexual relations), has no newspaper like the Advocate or Come Out. The only publications are the homophile Mattachine Society's conservative newsletter, devoted mainly to legal matters, and a nascent mimeographed sheet of somewhat the same genre called Gay Blade.

There are no movie houses specializing in homosexual films. The Andy Warhol gay "skin-flick" entitled "Flesh" was screened for the first time by a local theater just a week ago.

Thus it is evident Washington does not yet compare with New York or California. Local openness is best measured against the situation 20 years ago. At that time two or three gay bars existed under strict police supervision. Pay-offs, though not limited to homosexual hang-outs, were common. Entrapment of homosexuals and arrests were frequent.

Today the International Guild Guide—available at certain downtown bookstores—lists approximately 20 bars, nightclubs and restaurants catering exclusively to homosexuals and that number again which welcome them along with straight patrons. By comparison, San Francisco with a smaller population has 100. Washington homosexuals still prefer the privacy of their own homes. And there are those who disdain bars and even gay parties completely.

The establishments, located primarily in Georgetown, the Capitol Hill area and along 14th Street, are rated—up to "utterly fantastic"—and coded so the visitor knows what to expect: lesbians, hustlers, military, leather-jacket toughs, primarily Negroes, elegant atmosphere, drag show, dancing, at your own risk, etc.

It is just within the past year or two that unisexual dancing has become commonplace in gay clubs; male go-go dancers perform wearing only little pieces of netting, and moderate displays of affection (light kissing and touching) are permitted.

In general the police now leave homosexuals alone in private and in clubs except upon receiving complaints of soliciting or lewd conduct. Decorum is usually maintained in places frequented by upper-middle-class homosexuals. Inspector Walter Bishop, head of the morals squad, says the last club raid took place two years ago at a club where patrons were found "on the floor." Pay-offs have almost entirely stopped, say bar owners. Similarly arrests have dropped. Male homosexual arrests in 1960 totaled 496; in 1968, 69. Today, sodomy is becoming as rare a charge as heresy; a lesser charge like disorderly conduct or loitering is customarily substituted.

But laws against homosexuality remain on the books. Just last week, the Alcoholic Beverage Commission suspended a gay club's license on 11 counts, one of which was indecent language and acts. In 1969 this means using four-letter words in sexually suggestive statements over the microphone and a male customer touching another male's groin and making provocative remarks.

Just as gay night spots have proliferated in recent years, so have bookstores, because of liberalization of pornography laws. Washington now numbers 24 shops selling erotic material, some of it slanted toward homosexuals. Whereas 10 years ago complete nudity was prohibited in magazines, nowadays beefcake—the masculine equivalent of cheesecake—can show anything with the exception of sexual acts, evidence or intent thereof. (No comparable magazines exist for lesbians because women, say pornographers, are not aroused by nude pictures.)

A clothing store, founded three years ago, specializes in gay apparel as well as more conventional attire. It does not carry leather-and-chain sado-masochistic clothing popular on the West Coast and also worn by some Washington homosexuals.

Buttons and bumper stickers with "Gay is Good" have been circulated since last summer. And the steam bath, which a homosexual reporter described in the Los Angeles Advocate as "sex on the assembly line," has also made its appearance here within this period.

These innovations, which affect only a minute percentage of the population, do not, per se, constitute a homosexual revolution. Rather, they should be regarded in the light of the total social upheaval currently taking place in this country.

What is more important than the changes themselves is the attitude toward them, both on the part of homosexuals and the world at large. Therein lies the revolution, of which the new militancy and openness are merely the methods.

[From the Washington Post, Oct. 30, 1969]

UNDERSTANDING HOMOSEXUALITY

It took the National Institute of Mental Health's task force on homosexuality two years to produce a report, but finally, last week, it issued a set of recommendations to help the United States catch up with other civilized nations in understanding this complex problem: that discreet homosexuality between consenting adults be considered "the private business of the individual rather than a subject for public regulation through statute"; that current restrictive job policies regarding homosexuals be reviewed and revised; that when homosexual behavior does require sanctions, "preference is given to rehabilitation rather than imprisonment," and that the study of homosexuality be included in future general studies of sexual behavior.

Recent evidence indicates that homosexuals are being treated less harshly than in the past in some major cities, but the NIMH report underscores the fact that only nationwide concern can achieve true reform of the network of opprobrium and stigma that now haunts the nation's three to four million adult homosexuals. When the prestige of federal attention is lent to the issue—for example, through the relaxation of government employment restrictions in some non-security areas—individual states may feel moved to review their own laws as well.

Changing laws alone cannot relieve all the disadvantages now suffered by homosexuals or solve what the task force called "a major problem for our society." But it would be a start, as it has been in Britain. Then rational and mature people on all levels may be willing to break the traditional taboos against discussing homosexuality. And that might even result in development of more tolerant and progressive social policy.

LEVITICUS 18: 22–30

22. Thou shalt not lie with mankind as with womankind; it is abomination.

23. Neither shalt thou lie with any beast to defile thyself therewith: neither shall any woman stand before a beast to lie down thereto: it is confusion.

24. Defile not ye yourselves in any of these things: for in all these the nations are defiled which I cast out before you:

25. And the land is defiled: therefore I do visit the iniquity thereof upon it, and the land itself vomiteth out her inhabitants.

26. Ye shall therefore keep my statutes and my judgments, and shall not commit any of these abominations; neither any of your own nation, nor any stranger that sojourneth among you:

27. (For all these abominations have the men of the land done, which were before you, and the land is defiled;)

28. That the land spue not you out also, when ye defile it, as it spued out the nations that were before you.

29. For whosoever shall commit any of these abominations, even the souls that commit them shall be cut off from among their people.

30. Therefore shall ye keep mine ordinance, that ye commit not any one of these abominable customs, which were committed before you, and that ye defile not yourselves therein: I am the Lord your God.

LEVITICUS 20: 13

13. If a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination: they shall surely be put to death; their blood shall be upon them.

PROGRESS IN RURAL ELECTRIC FINANCING

(Mr. FINDLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FINDLEY. Mr. Speaker, the rural electrification program is a fine example of a progressive program enriching the economy of the country through joint action of the people and their Government. This dynamic program was started in 1935 to provide a means of furnishing dependable electric service to unserved rural areas of the United States. The Federal Government made the capital available through long-term loans. The people of rural America developed the organizations, the leadership, and the many other tangible and intangible ingredients which contribute to the success of a new undertaking.

As a result of this joint venture, efficient and dependable central station electric service has been made available to millions of rural residents and many rural businesses. Each of the rural electric systems is an independent local enterprise, owned and operated by the consumers it serves. The Federal Government, through the Rural Electrification Administration, has a lending program which has a record of payment of principal and interest that is unsurpassed in the history of credit agencies, both private and public. Because of the accomplishments of this program, rural America is a better, more comfortable place to live and to earn a living. The future of rural America looks good, and this too is to a great extent attributable to rural electrification.

But this is not the end of the story. Much remains to be done. The dynamic men and women who are leaders in the rural electrification program realize that

they face a continuing challenge. Their systems require constant upgrading and strengthening to serve the ever increasing demand for more electric power.

These same men and women also have the opportunity and an obligation to provide encouragement and leadership for community economic development activities and enterprises. Economic growth and development is essential in rural areas and is in the national public interest. It will help curtail the migration of rural people to metropolitan areas, which already have more problems than they can effectively solve.

Rural electric systems are consumer-owned electric utilities. Because of this they will need large amounts of capital for growth and development in the future. The Rural Electrification Administration has made an outstanding contribution through loans for capital improvements to rural electric systems. However, it is now recognized that the REA cannot be expected to provide all the funds required for capital improvements in the future.

Leaders in the rural electrification program have become increasingly aware of this and have worked diligently for the past several years to obtain a source of financing to supplement the capital funds being loaned these systems through the REA.

The National Rural Electric Cooperative Association, representing nearly a thousand rural electric systems, created a long-range study committee 2 years ago as one step in the search for a program of supplementary financing for rural electrification. This committee was composed of 26 outstanding leaders in the rural electrification program from all sections of the Nation, including several from my home State, Illinois.

In March of this year, by an overwhelming majority, the NRECA membership adopted the report and recommendations of this long-range study committee. This report includes, for the first time in the 34-year history of the rural electric program, a set of comprehensive written objectives for the present and the future. The objectives deal with electric service, power supply, capital, territorial protection, electric power marketing, cooperative ownership and member relations, management and leadership organization, corporate citizenship responsibility, community development and services, and natural resources.

During the study, the committee held hearings throughout the United States and gave all rural electric systems, their members and other interested individuals and organizations an opportunity to present testimony on what they believed to be the problems of rural electric systems, to suggest solutions to the problems, and to spell out what should be the long-range objectives of the rural electrification program. From my own State of Illinois, a comprehensive statement was presented at the hearing of the committee held in St. Louis, Mo., by the Association of Illinois Electric Cooperatives on behalf of all the electric cooperatives in Illinois, by the Illinois Agricultural Association, and by the Illinois National Farmers Organization.

Therefore, the report and recommendations of the long-range study committee represent the thinking, not only of members of the committee, but also of experts in the utility and finance field and of practically all rural electric systems and others interested in the rural electrification program.

This broad group of objectives represents a catalog of activities in which the rural electric cooperatives or their members should be taking an active role. Some of these objectives are already being carried out. Others are in the process of development. Rural citizens, acting individually or through their rural electric system, bear the responsibility of undertaking the action necessary to turn these objectives into meaningful and productive activities.

To implement the objective on capital, the NRECA membership authorized the formation of the National Rural Utilities Cooperative Finance Corp. to provide funds to supplement the existing REA loan program. I had supported earlier efforts to develop sources of additional capital and I endorse this new proposal.

It resembles closely a proposal I made 10 years ago to a statewide meeting of rural electric cooperative leaders in Jacksonville, Ill.

Articles of incorporation were filed in the District of Columbia on April 10, 1969, and the incorporator-directors elected their officers. NRUCFC is a self-help finance organization. The rural electric cooperative members will subscribe to capital term certificates which, along with membership fees, patronage capital and open market financing, will provide funds to be lent to rural electric cooperative member-borrowers. The interest rate to be charged on such loans will be determined by the cost of money to NRUCFC.

Subject to arrangements with REA, all applications first will be submitted to REA, which will be asked to make initial determinations on whether the loan purposes are within the Rural Electrification Act and whether the application meets the standards for 2-percent, 35-year loans established by REA. Such an arrangement is logical and reasonable in view of the fact that under present procedures, with REA holding a lien on all present and after-acquired property of a borrower, it is necessary for REA to give a borrower permission to utilize another financing source.

On June 11, 1969, I wrote to REA Administrator David A. Hamil:

> The feasibility of developing the finance corporation into an effective source of additional funds seems to hinge upon a decision which you have the authority to make. Presently, REA loans have a prior lien over all other obligations to the party borrowing the funds. If the finance corporation is to effectively supply the much needed capital, it appears that it will be necessary for its obligations to share the prior lien position with REA loans.
>
> I do not believe that this would in any way jeopardize or degrade the government's lien position on property financed by REA, and therefore I believe it is within your administrative jurisdiction to make this sharing of the prior lien position possible. I do hope that you will give this every consideration because I can see enormous benefits accruing to many rural areas which desperately need these additional funds and which may otherwise be unable to secure them during these times when the federal budget is under so much pressure.

Administrator Hamil subsequently endorsed REA cooperation with the new Cooperative Finance Corp. In a memorandum to all REA field personnel and other key staff members on July 30, he confirmed this support and provided information about the CFC.

I am informed that REA is now working out the necessary procedures which will permit coordination of the Government's lending program with the supplementary financing which CFC will provide.

Meanwhile, 563 rural electric systems have filed for membership in the new self-financing organization. In Illinois, 24 of the 30 service groups eligible for membership in CFC have already applied for membership.

I wish to congratulate the rural electric systems and their farsighted leaders for their initiative and perseverance in developing new approaches and new tools to meet their responsibilities. Over 25,000 families are served by electric cooperatives in my congressional district. An adequate source of electric power is absolutely essential to the general welfare of my district and all of rural America. The successful establishment and operation of the National Rural Utilities Cooperative Finance Corp. will enable the rural electric systems in Illinois and in the United States to meet their obligations in the future as well as they have in the past.

I am pleased that leaders of all cooperatives serving my own Illinois congressional district such as Illinois Rural Electric Co., with headquarters at Winchester; Adams Electrical Cooperative, Camp Point; M. J. M. Electric Cooperative, Inc., Carlinville; Menard Electric Cooperative, Petersburg; Rural Electric Convenience Cooperative Co., Auburn; and Western Illinois Electrical Coop., Carthage, have seen fit to join this financial institution in a self-help effort to ensure that the capital needs of these cooperatives are met in the future to insure the availability of reliable electric power for the rural areas of Western Illinois.

I wish also to commend the leadership the electric cooperatives in Illinois have taken in this endeavor and, particularly, Raymond W. Rusteberg of Valmeyer, president of Monroe Electric Cooperative, Inc., Waterloo, Ill., and former president of the Association of Illinois Electric Cooperatives, Springfield, Ill., who has served as an incorporator and is a member of the board of directors of the CFC during its formulative period. The National Rural Utilities Cooperative Finance Corp. is in the finest American tradition, building on the foundation set in the early days of rural electrification—joint action by the people and their Government—with a new emphasis on private, independent financing.

The progress already achieved in the development of this institution merits the attention and the applause of all who are concerned for rural progress, and especially those who recognize that Federal financing alone will not suffice for the expanding needs of rural electric cooperatives.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. REID of New York (at the request of Mr. RUTH), for 1 hour, on November 5; to revise and extend his remarks and include extraneous matter.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SIKES on H.R. 7618.

Mr. CHARLES H. WILSON on H.R. 11548.

Mr. NEDZI on H.R. 8664, H.R. 9564, H.R. 8662, and H.R. 10317.

(The following Members (at the request of Mr. RUTH) and to include extraneous matter:)

Mr. WIDNALL in two instances.

Mr. LLOYD.

Mr. SCHWENGEL in three instances.

Mr. ANDERSON of Illinois in two instances.

Mr. TALCOTT in three instances.

Mr. MINSHALL.

Mr. DAVIS of Wisconsin.

(The following Members (at the request of Mr. ANDERSON of California) and to include extraneous matter:)

Mr. STEED in two instances.

Mr. TEAGUE of Texas in six instances.

Mr. MONTGOMERY.

Mr. CORMAN in five instances.

Mr. GIAIMO.

Mr. RARICK in three instances.

Mr. LOWENSTEIN in five instances.

Mr. HUNGATE in two instances.

Mr. BYRNE of Pennsylvania.

Mr. BOGGS.

ADJOURNMENT

Mr. ANDERSON of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 36 minutes p.m.), the House adjourned until tomorrow, Tuesday, November 4, 1969, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

1306. Under clause 2 or rule XXIV, a letter from the Chairman, Indian Claims Commission, transmitting the annual report of the Commission, for fiscal year 1969, was taken from the Speaker's table, referred to the Committee on Interior and Insular Affairs.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HORTON:

H.R. 14638. A bill to provide Federal leadership and grants to the States for developing and implementing State programs for youth camp safety standards; to the Committee on Education and Labor.

By Mr. PATMAN:

H.R. 14639. A bill to establish a development bank to aid in financing low- and moderate-income housing, employment opportunities for unemployed and low-income citizens, and public facilities in certain urban and rural areas; to the Committee on Banking and Currency.

By Mr. RYAN (for himself, Mr. BINGHAM, Mr. BROWN of California, Mr. BURTON of California, Mrs. CHISHOLM, Mr. CONYERS, Mr. EDWARDS of California, Mr. FARBSTEIN, Mr. ROSENTHAL, Mr. ROYBAL, and Mr. SCHEUER):

H.R. 14640. A bill to prohibit the procurement of California table grapes by the Department of Defense; to the Committee on Armed Services.

By Mr. VAN DEERLIN (for himself and Mr. HANNA):

H.R. 14641. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged; to the Committee on Ways and Means.

By Mr. KOCH (for himself and Mr. LOWENSTEIN):

H. Res. 609. Resolution in support of a cease-fire and accelerated U.S. troop withdrawal from Vietnam; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BURTON of California introduced a bill (H.R. 14642) for the relief of Severina Viray Manansala and her husband, Ciriaco Anicete Manansala, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

314. The SPEAKER presented a petition of Henry Stoner, York, Pa., relative to an investigation of procedures for commitment to State mental institutions, which was referred to the Committee on Rules.

EXTENSIONS OF REMARKS

SHIRLEY MARSH—A PUBLIC MAN

HON. WARREN G. MAGNUSON

OF WASHINGTON

IN THE SENATE OF THE UNITED STATES

Monday, November 3, 1969

Mr. MAGNUSON. Mr. President, the residents of the southwestern portion of my home State of Washington have recently been saddened by the passing of a man of great stature. Shirley Marsh was a man of many talents—warm, understanding, and dedicated to the growth and development of Cowlitz County. Mr. Marsh's interests were many, and his talents, as pointed out in an editorial published in the Longview Daily News of August 20, 1969, were well refined.

Mr. President, I ask unanimous consent that the editorial be printed in the Extensions of Remarks.

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

SHIRLEY MARSH—A PUBLIC MAN

The man with an engaging smile and a twinkle in his eye would frequently lean close to whoever he was talking to, remove the cigar clenched between his teeth and say, "Between thee and me, well I . . ."

And when Shirley Marsh was serious, whoever he was talking with listened and listened well. Because when Shirley Marsh was talking politics, power, area problems or the law, he knew his stuff and people knew it.

Now Shirley Marsh is gone and all of Cowlitz County will be poorer for it. While he was widely known and admired around the county and indeed, around the state, relatively few persons understood where his influence came from.

Mr. Marsh was more than an attorney and civic leader. He was a political person. He had one of the shrewdest political minds around. He understood the political processes thoroughly and used them time and again not only for his party's benefit, but more often to help someone else or his native county he loved so dearly.

When he served in the legislature, leaders of both parties held him in high esteem because of his abilities. This respect and admiration continued even after he left the legislature. It proved beneficial to the area and to dozens of individuals with problems over the years. Often the way to get a problem solved was to "see Shirley" because he knew who to call or talk to.

In recent years, Mr. Marsh turned his interests to the PUD—where he was legal counsel—and the city of Longview, where he was president of the Chamber of Commerce. In both bodies, he worked efficiently and effectively for progress and community improvements.

For all his ability and positions, Mr. Marsh never lost touch with people. He seemed to be everyone's friend—the man in the street or the governor of the state. And he greeted nearly everyone with that same engaging smile and twinkle in his eye. Because he was a Democrat, some Republicans came to know that when Mr. Marsh put his talents to work, it usually meant woe for the GOP.

Shirley Marsh, then, was a public man. He spent his life in the public arena and loved it. His death leaves a void that will not be filled soon.

IOWA ARTS COUNCIL

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. SCHWENGEL. Mr. Speaker, the Iowa Arts Council is a relatively new agency of the State government in Iowa. In its short life, it has made some rather significant contributions. These contri-

butions are very ably detailed in a recent guest editorial in the October 25, 1969, Davenport Times-Democrat. The editorial, by Julie McDonald, follows:

ENRICHING A WIDERNESS

(EDITOR'S NOTE.—The guest editorial today is by Julie (Mrs. E. R.) McDonald of 2802 E. Locust St., Davenport. She has been appointed chairman of the Iowa Arts Council by Gov. Robert D. Ray. A free-lance writer, she contributes feature articles to the Times-Democrat under the name of Julie Jensen; she also is the author of several novels, short stories and a children's play. She is the wife of an attorney and mother of a boy and a girl.)

The Iowa Arts Council is three and a half years old, younger than some of the councils in each of the 50 states and several territories and older than others.

The state arts council movement is a response to a realization that human life involves more than maintaining physical existence.

The American people are ready to consider the arts as basic nourishment for all the people rather than a fancy dessert for the rich.

The job of the state arts council is to make painting and scultpure, theater, music, literature, the dance, and architectural excellence available to all the people.

Why are the arts important to a community or to a state? David Rockefeller, president of Chase Manhattan Bank, says, "Corporations genuinely concerned about their environment cannot evade responsibility for seeing that increased leisure is channeled into rewarding activities such as those the arts afford. We must face up to the task of bringing our cultural achievements into balance with our material well-being through more intimate corporate involvement in the arts."

As humans, we need the arts. Paul Engle of the University of Iowa, a member of the National Council on the Arts, says the arts will have to take the place of the wilderness in our time.

He says, "As the landscape gets chewed up and air becomes unbreathable, what do you have left to enhance your life! The power of the arts to make life bearable has been underestimated."

Artists need to be seen, heard and read, and their audiences need openness more than specialized training to appreciate the offerings of the arts.

When the 15 members of the Iowa Arts Council meet to consider proposals of arts projects to be funded each year, they yearn for rubber dollars.

A great deal of worthy talent is turned away for budgetary reasons, but the available dollars go a long way toward reaching the 99 counties of Iowa with unique small projects in the arts.

The Iowa Legislature appropriated $30,730 for the council for fiscal 1970, and the National Endowment for the Arts grants each state $31,000 a year.

Since most of the state appropriation is necessary to run the council office and pay the salary of the executive director, funding of arts programs is limited to the amount of the federal grants.

Individual grants range from a few hundred dollars to several thousand, to be matched in a combination of time, talent and money by the individual or group presenting the proposal.

About 30 projects are funded each year, mostly touring groups and shows in music, dance, theater and the visual arts.

The council's aim is to develop art resources in Iowa and spread them to areas which have no resources of their own.

Our neighboring states are richer through state appropriations and can mount more ambitious programs. The Illinois program receives $270,000 from the state for fiscal 1970 with more funds from private contributions to the council. The Minnesota Legislature has appropriated $113,825 to the Arts Council; the Missouri appropriation is $201,082.

The Iowa Arts Council is grateful for the Legislature's efforts in its behalf. Its members realize that the actions of the state governing body reflect the views of the people, and until Iowans acknowledge the importance of the arts and transmit this awareness to their representatives, we cannot hope for state funds comparable to those of our sister councils.

However, we have hopes for the development of another resource. In his inaugural message, Gov. Robert D. Ray said, "No mention of better living for Iowans would be complete without a salute to the State Arts Council, which has provided a big return for a very small investment . . . I pledge enthusiastic support to the continuing success of the Arts Council, and remind my fellow-citizens that the council is authorized by law to accept private contributions."

Jack Olds, executive director of the Iowa Arts Council, will be at the Davenport Municipal Art gallery 11 a.m. to 1:30 p.m. Nov. 12 to consult with anyone interested in offering a proposal for funding to the council to be included in next year's projects.

The council sponsors touring services, technical assistance, educational programs, and experimental projects. Colleges, school boards, PTA, services organizations, student groups, concern and theater groups, study clubs, and individuals are urged to explore the possibilities of programs the council may support.

The youth drain which Iowans deplore may be attributed in part to a poverty of cultural programs in many parts of the state. Supporting the arts is good business because they make an area attractive to business investors. Skilled, well-educated employees demand more than "things" in the choice of a long-term environment.

CATV QUESTIONS POSED

HON. HUGH SCOTT

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Monday, November 3, 1969

Mr. SCOTT. Mr. President, the cable television industry is one which is vitally important to my Commonwealth of Pennsylvania, both in terms of its contribution to the State's economy through the manufacture of CATV equipment and in terms of service to the people of Pennsylvania. Because of my concern over certain Federal Communications Commission policy in this area, I submitted a number of questions on this subject to Dean Burch during the Senate Communications Subcommittee's initial October 15 hearing on his nomination to be Chairman of the FCC. His written response now has been received. I believe this exchange will be of interest, nationally; therefore, I ask unanimous consent that both my questions and the combined answer supplied by Mr. Burch be printed in the RECORD.

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

QUESTIONS SUBMITTED BY SENATOR HUGH SCOTT TO DEAN BURCH, NOMINEE FOR CHAIRMAN OF THE FEDERAL COMMUNICATIONS COMMISSION, OCTOBER 15, 1969

1. On December 18 of last year, the Federal Communications Commission abruptly ordered a complete freeze on the further growth of cable television systems within the Nation's largest 100 markets. This was done through the procedure of "interim rules" which added to and superseded the FCC's Second Order and Report of 1966. In view of the fact that this action has effectively stopped the growth of cable television in this country for almost a year, do you believe, especially in view of the economic hardship and uncertainty which has resulted, that the entire subject of CATV regulation should be brought up for a thorough review now?

2. As you are probably aware, much of the criticism of the FCC's handling of the CATV matter has centered on charges that the Commission did not faithfully follow the provisions of the Administrative Procedures Act (5 U.S.C. Sec. 1005). I am one who strongly holds this view. When I asked this question of Chairman Hyde last spring, I was told that the FCC "believes" it is acting in full accord with the Act. In view of the continuing controversy on this point from many sources, do you believe there is good reason to review again the provisions of this Act and to determine for yourself whether the FCC violated either the spirit or the letter of this Act in ordering the CATV freeze?

3. In response to another question which I asked of Chairman Hyde last year, he said he knew of no instance in which a television station had been forced off the air or even forced to reduce service as the result of CATV competition. Is there any reason, then, why the FCC should not promote the development of cable television to the fullest extent unless and until it is factually demonstrated that regular broadcast service is actually impaired?

4. There is now a provision in the FCC rules that permits the Commission to impose an indefinite injunction upon a cable system's operation with no standards for even a minimal showing of need, or for any time limit on the injunction. I am reliably informed that there are some injunctions that are now running into their third year. Do you believe this to be a proper way for the Federal Communications Commission to exercise its discretion?

5. I would like to have your views with respect to the proper role of the Federal Government in fostering an improvement in television programming. There are some who feel that the existing services ought to be protected from competition but, at the same time, subjected to rather strict programming standards, going to the content and subject matter, and thereby raising some serious questions with respect to censorship and First Amendment freedoms. On the other hand, there is a school of thought which suggests that programming controls are not needed, but that more competition *is* needed and that the Commission can more easily assure the public of better programming by providing for more channels of television. With which point of view do you side?

6. In line with the above, the FCC has now authorized the use of the broadcast spectrum for pay television, presumably to encourage program diversity. Doesn't it seem inconsistent to you that the Commission has moved at the same time to restrict cable television?

7. Do you feel that the Federal Communications Commission should ever irrevocably commit itself to a certain course of action

even if technology develops so rapidly that the policy becomes outdated?

ANSWER TO QUESTIONS SUBMITTED BY SENATOR SCOTT

Since the seven questions posed by Senator Scott are directed to the FCC's CATV regulatory policies, I believe that the following answer is pertinent to all these questions:

You will appreciate that I am not now in a position to give you a response of any substance to questions 2, 3, 4, 6. They do deal with specific Commission decisions or policies that obviously require my further study and I feel it would be presumptuous of me to seek to respond to them until after I have had the opportunity to become more familiar with the subject matter. I assure you I appreciate the significance of the questions you have raised and will endeavor to provide definite responses in the near future.

I will seek to respond in very general terms to the overall theme of the need for continued Commission review of its CATV policies as contained in Question 1. It is my understanding that the broad subject of CATV regulation will be considered, both by the Commission in its rule making proceedings and by the Congress. I certainly endorse both Commission review, and the need for Congressional guidance in those areas where Congress is disposed to act.

As to Question 5, I would stress that in my view the most appropriate course is to obtain for all the people the maximum degree of diversity of services consistent with the public interest, rather than to attempt a dubious course of strict programing regulation. I fully recognize that the new technology of CATV, because of unique features, holds the promise of a most substantial contribution to greater diversity of programing sources, and will thus seek to promote fulfillment of this promise.

Finally, as to Question 7, I do not believe that the Commission should ever irrevocably commit itself to a certain course of action. Communications would appear to be one of the most dynamic and changing fields, and it follows that the Commission must be alert to revise its regulatory policies, as technology changes.

GE STRIKE FOCUSES ATTENTION ON NATION'S LABOR LAW

HON. SHERMAN P. LLOYD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. LLOYD. Mr. Speaker, the House Republican Task Force on Labor Law Reform has conducted a series of meetings with spokesmen for both management and labor, assessing the adequacy of present labor law legislation to cope with today's realities. While we are still conducting this series of meetings, it has been significant to this point that there has been no outpouring of demands for compulsory settlements of contracts involving the national interest. Relevant to our discussions is an article written by Mr. A. H. Raskin in the November 2 issue of the New York Times which I commend to all those concerned about labor law legislation:

GE STRIKE: ADMINISTRATION'S ROLE SO FAR IS HANDS OFF

(By A. H. Raskin)

Even before the nationwide strike against General Electric began last week, Secretary of Labor George P. Shultz let the company and the heads of the 13 unions involved know that the White House intended to stay out of the dispute. The Administration's resolve was to demonstrate the genuineness of its faith in free collective bargaining by keeping hands-off, despite its awareness that the outcome of the G.E. strike might have a crucial effect on the success or failure of President Nixon's plea to all labor and management for help in checking the wage-price spiral.

When Arthur J. Goldberg served as Secretary of Labor in the Kennedy Cabinet, he was so fast on the uptake in major industrial disputes that some irreverent aides suggested equipping his office with a fire chief's helmet and brass pole. His first weekend on the job found him in New York settling a paralyzing strike of railroad towboat crews. Everything from the Big Three auto companies to the threat of a musicians' walkout at the Metropolitan Opera drew his personal attention. He never stopped running until President Kennedy named him to the Supreme Court.

SCANT SUCCESS

His successor, W. Willard Wirtz, tried to get off the merry-go-round but with scant success. Not only did Secretary Wirtz find himself directly involved in dozens of efforts to keep the peace on the industrial front; he often had a high-level helper in President Johnson, who summoned union and management negotiators to the White House and told them—not always with much effect—how desperately the country needed a settlement.

All that has changed with the advent of the Nixon Administration. No Secretary of Labor since the New Deal put government deep into labor relations 35 years ago has subscribed more determinedly than George Shultz to the notion that the White House should keep hands off. This is a matter not of politics but of philosophical conviction for the man who came to the Cabinet from the deanship of the University of Chicago's Graduate School of Business.

The Shultz approach was set forth in some detail in a talk he gave in 1963 shortly after Congress, acting on President Kennedy's recommendation, had passed the first Federal compulsory arbitration law in the country's history to halt a national railway strike. Dr. Shultz argued that what had broken down in the railroads was not free collective bargaining but "government-dominated bargaining." In his view, both sides had grown so dependent on Federal decision-making over the years that all the vitality had run out of their relationship and they could not solve even a simple grievance on their own.

He warned that in many other industries, getting the White House into the act, he felt, was becoming a kind of status symbol, especially for the party that felt it would come out ahead. "It is getting to the point where you are not a big boy any more unless you have the Secretary of Labor involved," was the way the 1963 Shultz put it. And he had a postscript: "If the President hangs out his shingle, he'll get all the business."

NEUTRALITY

Since entering the Cabinet, Secretary Shultz has been following out the precepts enunciated by Dean Shultz. Thus in the G.E. dispute, direct Government intervention has been left to the Federal Mediation and Conciliation Service in discharge of its statutory obligation under the Taft-Hartley Act. But what constitutes neutrality is hard to define in a strike involving 125,000 workers in a company with hundreds of millions of dollars in defense orders. The unions started out feeling aggrieved over President Nixon's issuance on the week before the G.E. strike deadline of his hold-the-line appeal to all management and labor—a communication they regarded as decidedly helpful to the company.

Against that backdrop they were quick to complain when they felt Secretary Shultz was tipping the balance still further on the strikes first day. What triggered their complaint was no breach in his own aloofness from the peace efforts but his reply to an interviewer's question on a C.B.S. news program. Asked why the company was putting up so much resistance to the union wage demands, Dr. Shultz attempted to give a responsive answer—always a mistake for an official in such circumstances. The Shultz explanation was that G.E. was beginning to feel the effects of the Administration's anti-inflation policies in its product market and that it feared its profits would be squeezed by a big pay increase. Although this explanation would seem axiomatic in a class in freshman economics, it brought from Paul Jennings, operating chief of the union coalition, an accusation that Dr. Shultz had taken a partisan stand in the dispute and thus abdicated the historic role of the Secretary of Labor and should resign. The White House chose to ignore the demand for Dr. Shultz's scalp and Mr. Jennings is not pressing it.

When President Nixon met with the A.F.L.-C.I.O. Executive Council in mid-week, the Labor Secretary patched up his feud with Mr. Jennings and the President reiterated the White House determination to stay neutral in the G.E. strike. With both the company and the unions dug in for a showdown test on Boulwarism, the chances were strong for a repeat of the kind of economic holy war the Big Four copper companies and an alliance of 26 unions fought for 37 weeks in 1967–68. In the end neither side won, but the national balance of payments took a bad beating through heavy dependence on high-priced imported copper.

The unions got a leg up from the United States Court of Appeals in New York last week in their long legal battle against "Boulwarism." the formula under which G.E. decides what is a fair offer and then sticks to it. But the prospect of shortening the present strike was not vastly enhanced by the court's 2-to-1 ruling that the company had not bargained in good faith in the contract talks that led up to a much smaller strike in 1960—one that resulted in a crushing union defeat. The decision condemned G.E.'s "unbending patriarchal posture" and the large-scale communications effort that went with it as calculated to persuade the workers that the company, not the union, was their true representative. The unions promptly proclaimed that the decision "buried" Boulwarism. But there were enough loopholes in what the court said to give the company the basis for arguing—even if it lost the final round in the Supreme Court—that its actions in 1969 could not be fitted into the precise mold of the 1960 prohibition. The outlook was for much more litigation, not a clear road to ending the current tie-up.

That means the final decision will be made on the picket line. The company is standing fast on its contention that it has made the best offer in its history and cannot do more without giving the inflationary spiral another upward push, to everybody's detriment. It stresses, however, that the whole package is open to "rearrangement and review" in the light of negotiations.

The strikers take no comfort from that assurance. "I don't know whether Hanoi learned from G.E. or G.E. learned from Hanoi, but they both negotiate the same way," said Mr. Jennings at week's end. "Nobody better get involved in this dispute. There is just one way to deal with a company that only respects the law of the jungle."

THE U.S.S. "MILWAUKEE" JOINS THE FLEET

HON. GLENN R. DAVIS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. DAVIS of Wisconsin. Mr. Speaker, on Saturday, November 1, it was my honor and privilege to speak at the commissioning of the Navy's newest ship, a new type replenishment oiler, the U.S.S. *Milwaukee*, AOR–2.

Because I believe my colleagues will be interested in the historic tradition of the U.S.S. *Milwaukee*, and the mission and capabilities of this newest addition to the fleet, I insert my remarks in the RECORD:

THE U.S.S. "MILWAUKEE" JOINS THE FLEET

Admiral Wylie, Captain Martin, Friends of the Navy, and you who have brought AOR–2 to this moment of availability of service to the Navy and to our Country:

For several reasons, this is a moment of recollection and pride for me.

It was here, in the first Naval District, Admiral Wylie, that I began active duty in the Navy; in the same month, Captain Martin, that you were graduating from Lowell High School. Here, with a nautical background that extended to manipulating a rowboat on some of Wisconsin's many lakes, I first went aboard a commissioned ship of the United States Navy.

It was here that, on a visit, Mrs. Davis, whom you met, consented to become my wartime child bride.

It was from here that I went through 33 months of service aboard another glorified oiler with a flight deck on top, which met its fate in the form of a Kamikaze Nick off Okinawa.

It was here, out of a book called "Customs and Traditions of the Navy" that I learned that no self-respecting Naval ship joins the Fleet without three rites: keel-laying, launching and christening, and commissioning. There is one common denominator of all three rites, somebody from Washington makes a speech!

I can only say to you Navy people that this is a selfinflicted punishment. You really cannot ask for sympathy, only merciful brevity.

And, of course, it is no matter of small pride to me, and to all the people of the Milwaukee Metropolitan Area, that this fine new ship bears the name of the city and river of Milwaukee. Milwaukee, in the Indian language from which it takes its name, means "good country". A good ship can bear such a name with pride.

This is the fourth ship of the Navy to carry this proud name.

The first Milwaukee was an iron-clad double-turreted monitor of civil war vintage. She was torpedoed in Mobile Bay in March, 1865, but her intrepid commander and crew went ashore to man a naval battery which participated in the bombardment which reduced the last confederate fort at Mobile.

The second Milwaukee was a cruiser commissioned in 1906. This ship was fatally damaged off the California Coast in 1917 while engaged in attempts to free a submarine which ran aground.

The third Milwaukee, a light cruiser of World War I vintage, performed numerous significant peacetime missions, including hydrographic soundings in the Solomons, Carolinas, and Marshalls—some familiar World War II names. She recorded the greatest Atlantic Ocean depth, an area of the Caribbean still known as "Milwaukee depth." In World War II she served on numerous Atlantic convoy missions until April 1944 when she was turned over to the Russian Navy and renamed Murmansk. Never again did she rejoin our Fleet.

So, for most of the last 105 years, the name Milwaukee has meant something to our Navy.

This, the fourth Milwaukee, OAR–2, is the second of a new class of multi-purpose replenishment ships being constructed for the United States Navy. The new Milwaukee will be able to sustain a speed of about 20 knots and will be able to operate either independently or as a unit of a fast underway replenishment task group.

She has cargo space and underway transfer equipment for petroleum products, refrigerated and non-refrigerated provisions, and ordnance, including missiles and special weapons.

The new Milwaukee carries the most advanced equipment for fueling at sea. She has a replenishment helicopter landing and launching area which increases her rapid cargo discharge capability.

Quincy Division, General Dynamics Corporation, has done its job well in delivering this modern auxiliary vessel to the Fleet. At one time, fleets operating reasonably near coastlines needed only to put into the nearest friendly port for supplies, but in this age, our fleets must move fast and far from their original supply bases along coasts. An auxiliary fleet is needed to bring the needed supplies. The Milwaukee standing here today is that kind of ship.

It is one of a series of ships being built to meet the challenge of an ever increasing Soviet Union sea power. Since World War II, the Soviets have concentrated on building a powerful Navy dominated by submarines but complemented by modern surface warships including a variety of auxiliary vessels. The Soviets now have the world's largest submarine force. They have also greatly increased their number of auxiliary vessels, freeing them from their historical dependency on their coastline.

The modernity of this vessel is important. The growth in the Soviet Navy has come about largely since World War II. This means about 90 percent of their ships are less than 15 years old. In contrast, almost half of ours are World War II vintage and one-third of ours are 25 years of age. We have something over 500 ships more than 19 years old, while the Russians have only two ships in operation that were commissioned that long ago.

Their cruisers and destroyers carry the surface-to-surface missiles which ours do not have. Their surface-to-air missiles on vessels compare with ours in ability. The Soviets are using gas turbine power on some of their ships, something which we have not tried yet.

In their merchant marine, the Soviets have also expanded greatly during the past few years. The merchant navy ranked only 21st among merchant fleets in 1950. It was in fifth place by 1966. Their merchant marine vessels are younger than ours. Four out of five in their fleet are less than 10 years old. In our merchant marine fleet, four out of five date back to World War II or before.

History records that the United States did not become an influential force in world affairs, did not become a significant factor in world history, until she became a great maritime power—until Yankee Clippers and Boston Whalers plied the seas, until a modern civil war fleet could enforce a blockade and ward off foreign interference until 1898 when, in accordance with a song of that era, "Dewey made a few remarks that carried lots of weight, and we did some fancy bottling down in Santiago Bay, and fixed it so Cevera found he couldn't get away."

For many years, it served our interests well to marry ourselves to the British fleet. This marriage, this dependence, was well illustrated in 1823.

The Spanish colonies in the New World were in revolt. Spain called upon her European allies, the so-called Holy Alliance for assistance in reconquest. The British Foreign Minister, Lord Channing, suggested to that son of Massachusetts who was serving as President Monroe's Secretary of State, John Quincy Adams, that Great Britain and the United States should issue a joint statement warning against such reconquest. At that time, Secretary Adams prevailed upon President Monroe to act independently in enunciating the Monroe Doctrine because, as he put it, "He didn't want us to be a rowboat in the wake of the British Man of War."

In today's world, there is no British Man of War—there is no Navy on which we can rely for our defense except our own.

This concept applies not only to carriers, submarines, destroyers, it applies to auxiliary vessels and merchant vessels as well; the essential support of our fleet. I am encouraged to believe there is a growing awareness of this need. The President is aware of it; the House Armed Services Committee, spurred for years by our late lamented friend Bill Bates, is aware of it; our Defense Appropriations Subcommittee is aware of it.

So, Captain Martin, anchors away to you and your crew. Yours is a proud ship that bears a proud name. Admiral Wylie and those who have delivered this modern ship into your hands, in this ceremony a few minutes ago, deserve a "Bravo Zulu" (Well Done) at the two block. I hope this will be the most frequent signal the Milwaukee will acknowledge at sea.

PREVENTIVE DETENTION PROPOSAL

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. HUNGATE. Mr. Speaker, the following article on the current problem of preventive detention should be of interest:

PREVENTIVE DETENTION PROPOSAL

When a suspect is arrested in Britain for murder, rape or other violent crimes, Lord Alfred Denning told the [California] State Bar convention recently, "we keep him in prison pending his trial; we do not allow that man out on bail . . . if there is reason to believe he may commit another offense while awaiting trial."

This amounts to saying that the British already employ the system of "preventive detention" which the Nixon Administration is proposing to employ in certain criminal situations over which the Federal courts have jurisdiction.

Last July the Justice Department asked Congress for authority to detain dangerous suspects in specified classes of crimes for up to 60 days without bail if a judge, having found a "substantial probability" of guilt, determines that the defendant's release on bail would be a danger to the community.

Civil libertarians and strict constitutionalists are bitterly opposed. Senator Sam Ervin Jr., of North Carolina said the request is "unconstitutional and smacks of a police state." In his address to the bar, Lord Denning, a leading jurist of his country, took

note of this opposition. "I have heard here that this is regarded as an unfair procedure because it amounts to imprisonment without trial," he said. "In England, we make sure he (the accused) is tried speedily—within eight weeks."

That is the big difference. The English provide a speedy trial; under the Sixth Amendment to the Constitution we guarantee a speedy trial but seldom make good on the guarantee. The reasons for this are many. Defense lawyers customarily play for delays, rather than for speedy disposition of their client's case, and this practice itself becomes a self-serving argument for release on bail as opposed to detention pending trial.

Courts are slow-moving and usually clogged with backlogs of cases. Most jails are crowded and would feel the strain of any substantial number of suspects being preventively detained.

In the face of these hindrances to speedy trials, all of which are frequently cited as discreditable to American justice, the opponents of the preventive-detention proposal of the Administration are making considerable headway.

Still, in any deliberation about how to control crime in this country, it is a good idea to begin by inquiring how the British do it. Our system, with its rights and safeguards, developed from theirs, and it is generally acknowledged that they have on the whole a much better record than we have of protecting society from the criminal and the criminal from injustice.

It is highly relevant to learn that preventive detention not only is customary in the homeland of Anglo-Saxon law but is no great subject of complaint because justice is swift there.

CLASS ACTION BILL WILL PROTECT CONSUMERS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. FRASER. Mr. Speaker, I am happy to join over 50 of my colleagues in introducing a "class action" bill to permit law suits in the Federal courts on behalf of large groups of consumers.

Under present law, an individual customer injured by illegal conduct cannot afford to bring suit for the injury he has suffered. The amount of his separate claim is likely to be less than the costs of bringing the suit.

Thus large numbers of individuals may be victimized by conduct that is fraudulent but there is no effective redress. Deceptive advertising, usurious interest rates, overpriced drugs and food, and adulterated meat are examples where duped customers are usually helpless.

Our bill gives Federal courts jurisdiction to handle civil class actions brought by consumers when laws for the benefit of consumers have been violated.

This bill is much better than President Nixon's proposal that consumers should wait until the Department of Justice takes action. This often takes years. Our bill permits consumers to take immediate action in the courts on their own behalf without relying on the sincerity and sympathetic support of Federal officials.

SOVIET SCENE '69: CONTROL OF PUBLIC OPINION AND THE GROWTH OF INDUSTRY

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. STEED. Mr. Speaker, in these installments of his story of Soviet Russia today Charles L. Bennett, managing editor of the Daily Oklahoman, continues his observations on his recent tour. He discusses Soviet control of public opinion, how it works, and how letters to the editor provide an outlet for many citizens. In another article he describes the impressive Russian industrial growth.

The materials follow:

TIGHT REIN MAINTAINED ON SOVIETS' THINKING

(By Charles L. Bennett)

"In two weeks of questioning," the American editor said, "we have not heard one whisper of criticism against your government."

"That means it's a good government," the smiling Soviet official quickly replied. Everyone in the room—that is, all the Soviets in the room—laughed heartily.

We were talking with Nikilai Baybakov, one of the 11 deputy premiers of the Soviet Union and chairman of the State (U.S.S.R.) Planning Board—a very powerful position.

Back in Moscow after visiting eight other Soviet cities, our group of touring editors had become intrigued with the question of whether—under the massive and all-powerful bureaucracy that is Soviet government at all levels—citizens of the U.S.S.R. really had any freedom of expression at all, any chance to criticize or influence what happens in the country.

When the laughter from Baybakov's remark died down, the American editor pressed ahead: "To us, coming from another system," he said, "the lack of criticism could only mean it has been silenced."

We mentioned recent news stories in the United States saying the Soviet government was exercising stronger controls over critics than in the Khrushchev era.

"These articles are incorrect," Baybakov said. "They propagandize the theory that we are returning to Stalinism and re-introducing terror and the hard line. This does not correspond to reality. Who needs it?

"Apparently, it comes from our ill-wishers. From our current democratic freedom of action, creative atmosphere that we now have, we do not intend to return to the past.

"The idea that people are jailed and we have repression is not true," Baybakov concluded.

A basic operating principle of the Communist doctrine, since revolutionary days, has been to maintain strict control over all media of communication—making them serve the interests of the party and "the state". We detected no sign that the present Soviet regime is deviating from that principle.

We heard from the editors themselves that their newspapers and magazines exist only to serve the interestts of the government, the Communist party, "and the people."

Feodor Mikhailov, editor of "Kazakhstan Pravda" in Alma Ata, put it this way: "Our press and government and people all agree—so why would we come out for something against government policy?"

When we asked if any paper ever had disagreed with government policy, the Alma Ata journalists finally did remember "the case of a paper in Leningrad—back in the 1920's—that disagreed. It was a Trotskyite paper." We got the impression that the disagreement—and the paper—were both short-lived.

"We do not separate the interests of the citizens and the party," said Kenesbai Usebaev, chairman for radio and television in the Kazakh S.S.R. "Their interests are the same and when we advance the party and the government, we advance the interests of the people."

"Can we assume the Izvestia's policy is government policy?" we asked Uri Filonovich, assistant editor of this national paper issued from Moscow.

"Yes, of course," he replied.

"And is there any difference between the policies of Izvestia and Pravda?" (another major national paper and official voice of the Communist party)?

"Not on basics, but some on approaches and emphasis . . . We differ in our evaluations of works of art and literature."

Four thousand magazines, more than 7,000 daily newspapers, untold millions of radio sets and, now, more than 25 million television sets make up the core of the Soviet communications media. Thousands of factories, universities and other enterprises also produce special papers. There also are both magazines and newspapers tailored for young people of various age groups.

All of the media is government-controlled, of course. Policy direction comes through government and Communist party channels. Ideological "guidance" is equally present for all kinds of artists—visual, literary, musical and dramatic.

Newsmen expelled from the U.S.S.R. or returning to the U.S. after duty there have reported Soviet authors are under tight ideological reins. "They write things acceptable to the government," one newsman wrote, "or their work isn't published." Anatoly Kuznetsov was recently granted political asylum in England, saying he no longer could stand the restrictions imposed upon him in the U.S.S.R. His defection reportedly has caused tightening of restrictions on foreign travel for Soviet writers.

Russian writers Yuli Daniel and Andrei Sinyavsky were charged, in 1966, with anti-Soviet agitation and propaganda. They were sentenced to five and seven years, respectively, in prison at hard labor. We asked Deputy Premier Baybakov whether such trials did not constitute a bad situation.

"You should find out more about what they did," he replied. "They violated the U.S.S.R. laws and this cannot be passed by. It wasn't that they criticized leaders. There were actions as well as words. They did things that would be punished under your laws, too. This led to stories of repression. I categorically deny it."

Undenied, however, is the general knowledge that Soviet authors, composers and playwrights are expected to produce material not only acceptable to Communist ideology, but actively advancing it.

Nikolai Bezraydin, newspaper editor in Siberia's Novosibirsk, said there probably was one magazine or newspaper a day for every man, woman and child in his area "and that probably is typical of the whole country."

We saw lines of people at kiosks in Moscow, waiting to buy a newspaper or magazine. Home deliveries are made, even in the large cities, through the mail system. Newspapers are posted on public bulletin boards for people who do not buy them.

Soviet newspapers generally contain only four pages, infrequently going to six. The usual cost is two kopeks (roughly, cents) if the paper is four pages, three kopeks if it's six.

There are a number of national newspapers, distributed in all parts of the Soviet

Union. Both Pravda and Izvestia claim circulations of seven to nine-million a day.

Next come the Republic or regional papers, published in major cities and the capitals of the various republics that make up the Soviet Union. The regional paper at Novosibirsk, for example, circulates its 125,000 daily copies over much of eastern Siberia. The largest paper in Byelorussia, from Minsk, has 300,000 circulation, just about the same number of copies circulated in that republic by the two major national papers, Izvestia and Pravda.

Many other papers serve smaller districts, or even single cities or metropolitan areas. Magazines, too, are found with regional or district circulations, as well as the national publications.

Local and district papers—and even the regional papers to a large extent—print only news of their own areas, leaving the national and international news to the nationwide papers like Izvestia and Pravda.

A young editor in the Ukraine was asked if he ever wrote about international affairs. "What do I know about foreign affairs?" he said. "I have no contacts, no sources. I read Izvestia and Pravda. I know what our government has decided. I have no reason to distrust our government."

The Novosibirsk editor said he received, from the U.S.S.R. wire news service, Tass, and printed some news about the debate in the U.S. as to whether to go ahead with the proposed anti-ballistic missile system, Safeguard, and the results

When we asked if there was similar debate in the U.S.S.R. over such issues, Bezraydin said: "There is a difference between talk and action. We don't have such debates, but we are firmly convinced we must come to an agreement on disarmament."

"At this time," he said, "we are discussing going over to ten years of compulsory education. We are getting the parents involved in this debate."

Journalists in at least two cities scolded us for "printing the Chinese side of the border disputes," insisting, "Only our side of the argument is true."

Trying to use this as leverage to get approval of a trip to the border, we said, "We have no way to tell what is true or untrue unless you let us go to see for ourselves."

"We weren't on the moon when Apollo landed, but we believed it," one newsman snapped back."

"You presented the conflicts in two versions of some of the border incidents," charged Nikolai Novikov, head of the Southeast Asia department for Izvestia.

"Whose side are you believing? Ours, because the truth is on our side? Or are you presenting it so your readers could also believe the Chinese side? Many of your journalists are not certain of the position they're taking. Your readers could think it might be either side."

We took that as something of an unintended compliment, and tried to explain the American news system of reporting all sides of any situation—rather than expressing judgments or conclusions. The explanation left our hosts puzzled, unenlightened and unconvinced.

Soviet newsmen also were critical of American newspapers "because they carry so much paid advertising" (failing to note that even the U.S. papers with the highest percentages of advertising still carry three to five times as many columns of news space as any Soviet newspaper.)

They also criticized "printing of gossip and rumors that have not been officially announced by the government." They wondered how, under our system, the government ever managed to make its views known to the public. We assured them that our system gave government at any level ample coverage, but they still shook their heads.

Soviet reporters are subject to "ideological" training along with the coaching they receive in technical and professional aspects of journalism "and, of course, they have to be tested on their political knowledge along with everything else," a newsman confirmed.

Professors at the university in Novosibirsk's Science City said students have "much freedom in choice of thesis subjects," and "as a matter of fact a number have been written about the controversial charges of 're-Stalinization' and 'The Cult of Personality'."

With these little glimpses into Soviet thinking about freedom of expression—in newspapers, the arts, even in the scholarly work of a university—we were not reassured. It appeared, without reasonable doubt, that any conforming expression would be acceptable but that anyone attempting to swim against the stream of Soviet Communist thought certainly would be doing it at his own—and considerable—risk.

LETTERS TO EDITORS PROVIDE OUTLET FOR SOVIET CITIZENS

(By Charles L. Bennett)

Letters to their newspapers, it appears, may be one of the most effective ways Soviet citizens have of making their views known and having some—however slight—influence on shaping their laws and living conditions.

Represented in legislative bodies by deputies elected from no-choice ballots, the Soviet voter may feel remote from the law-making process. But when he takes pen in hand to complain about something, his letter may appear in a national newspaper of seven or eight million circulation. It may, even, require a formal answer from a top national official or be instrumental in changing a proposed law.

This letter-writing and answering function of Soviet newspapers was little known to our group of touring editors when we arrived in Moscow. Before we left the country after visiting eight other cities, we were convinced letters to the newspapers may be the Soviet citizen's only effective outlet for his own, personal opinions. Maybe that's why they write so many of them.

While providing an outlet for the citizens, the great mass of letters also provides editors and government officials with broad insight into the minds of their countrymen and a gauge on how the latest programs and proposals are being viewed by the proletariat.

Out in eastern Siberia, Editor Nikolai Bezraydin said his paper in Novosibirsk receives 17,000 letters a year. Izvestia's editors said they received 1,000 to 1,500 a day at that nationwide paper's offices. That can add up to 400,000 to 500,000 a year.

"We have a staff of about 50 people who do nothing but handle the letters," assistant Editor Yuri Filonovich said. "We try to answer practically every one, either personally or in the paper. Sometimes, when we get a great many letters on the same subject, a staff member does 'Review of Letters' as a special article. Or we may send a staff member to investigate a situation that has caused complaints.

"We pubilsh as many as possible of the letters, but our space is limited so this goes only to about 10 a day, at the most.

"Writers complain about city services, international tension and acts of aggression, work progress, transportation, the airlines, local Soviets (city councils), bureaucratic faults, pensions, red tape in organizations or a certain official.

"The only thing they don't complain about is lack of work."

"Were any letters received about the Czechoslovakian actions?" we asked.

"Not too many," an Izvestia man replied. "Most of them were letters of solidarity" (agreement with the U.S.S.R. action). "We got more letters on the Safeguard system.

"Some writers criticize the paper for mistakes. Others want advice on purely personal matters.

"We frequently refer letters to those who can do something about whatever the complaint is. If some organization is criticized in a published letter, it usually replies—and we publish the reply. We could pressure them to reply, even though there is no law to require it. We would just write a story that the complaint had been made but the organization declined to answer it. Then they would. We follow up, too, to see what has been done about the problem.

"This is common practice on all of our papers. We deal with all problems except intra-party affairs."

"We get some crackpot letters, too."

We asked whether the letters were signed.

"Most of them are," was the reply.

We asked if organizations or governmental bodies ever were critical of the paper for printing letters of complaint about their operations.

"Yes, but it doesn't mean anything," Filonovich replied. "It is a peculiarly Russian characteristic to write letters of complaint and the tradition of requiring that they be answered goes back to Lenin."

We wondered if Soviet newspapers said anything critical of Nikita Khrushchev, before his 1964 downfall that caught most of the world by surprise.

"He's on pension. Why discuss him now?" a Minsk journalist wanted to know.

"Did any of your papers say anything against him when he was in power, if he was so unable to lead as we heard afterwards?" we persisted.

"There was criticism of some enterprises," answered Anatoly Lisovsky, a member of the board of the Union of Journalists for Byelorussia. "We published what was said at various meetings."

"Did the papers themselves say anything?"

Another Minsk journalist replied: "You'll just have to look back through your papers."

"Did your papers have anything to say about the Czechoslovakian action by the U.S.S.R.?" we asked the Novosibirsk editor.

"Of course not," Editor Bezraydin answered, "because we didn't feel critical about it. No objective observer would call the U.S.S.R. action in Czechoslovakia aggressive.

"We have a law," Bezraydin commented another time, "that prohibits anyone from propagandizing for war. Our strivings are peaceful strivings and the people want peace. So you can't say our people don't influence decisions."

"We'd be glad to explain the differences between what the American government is, and the American people are," Bezraydin replied. "Just read Marx's 'Das Kapital' if you don't know what an imperialist is."

"Do papers in Byelorussia sometimes find themselves in differing positions on actions of the Supreme Soviet?" we asked.

"We have not had such cases," a Minsk journalist answered, "because any decision would have had wide discussion before the law is passed. Before that, papers give lots of coverage and many letters would be received and printed.

"For instance, in the last two months we have been discussing the charter for collective farms, publishing articles by various experts who give the pros and cons on all the points. Such comments and discussions are taken into consideration before the final law is adopted and published."

Members of the Soviet Women's Committee, too, had told us of their coverage of provisions of a new family and marriage law. "We had much comment," one of the committee editors said, "and these were influential in shaping the final law."

"Would your paper, on its own, have something to say about the proposed law?" we asked the Minsk editor.

"Very often," he said, "the papers will make their own suggestions before the law is adopted. They would publish this as article bylined 'From the Editorial Board'. Such

an article might also criticize specific ministries or ministers."

"We are helped by the people," an Alma Ata news official said. "If there are drawbacks in a farm or factory, workers usually write to us to complain. We read these. Or a correspondent may discover a drawback and write about it."

In Minsk, we discovered an aspect of Soviet newspapers we had not heard about.

"In addition to our handling of their letters, the public has another way of expressing its views," said Leonid Proksha, the bush-haired and literate editor of "Voice of the Motherland," a satirical magazine nicknamed "The Hedgehog".

"We also have readers' conferences. We bring them together and they can criticize or praise the editorial board. How often this is done depends on how well the editorial office works. The paper that wants to interest its readers does it often. We have one 'Press Day' a year on which each paper reports to its readers on its activities.

"We don't invite specific readers, but publish the date of the conference and anyone can come. The central papers, such as Pravda and Izvestia, have readers' conferences out in the Republics. They do this at various enterprises and other places."

"The last such conference we had," said Deputy Editor Tolstik of the local Minsk paper, "was at a tractor plant and 300 attended. The workers there said 'This is a big plant and few stories are printed about it.' We later lined up volunteer correspondents at that plant to give better coverage.

"Two months ago," he continued, "when Pravda had a conference here, 600 people attended. Their two local correspondents, their science writer from Moscow and their Japanese correspondent reported on their work. About eight readers spoke, including some of the engineers and scientists who attended. They criticized Pravda for its failure to note some developments in the Academy of Science here."

Similar conferences of radio and television listeners and viewers also are held, we were told in Alma Ata.

When we asked about outside broadcasts being received, such as the Voice of America, BBC German and Chinese broadcasts, the answer was "Yes, they are heard" and "No, we do not jam them". We really didn't expect any different answer.

The role of our hosts, the Union of Journalists also was questioned. We were told the union has only 45,000 members, even though there actually are some 200,000 people in newspaper, radio and television news jobs.

"We accept professional newsmen," an official said, "and journalists who, by their work, have proved their professionalism. At our Congress every four years, the members elect an executive board of 125 members. This board elects the chairman, vice-chairman and 23 secretaries, from each of the Republics and other well-known groups and organizations." This group sets policy and, with a secretariat in Moscow, runs the affairs of the union.

At a meeting with officials of the Soviet's Novosti press agency, an American editor said, "We need more open daily coverage of each of our countries, by correspondents of the other, if we are to have better understanding."

Victor Mayevskiy, one of Novosti's founders and a noted writer, immediately replied, "But we can't have correspondents write dishonest things about us."

We chided Novosti for its notorious (in the western world) practice of charging foreign correspondents fees to arrange interviews with Soviet officials. But they defended this as "simply a convenience to reporters who are new to our country and cannot do it themselves."

Resident American correspondents in the U.S.S.R. are strictly limited to a 25-mile radius around Moscow; they can go elsewhere only with permission of the Soviet government. Some say approval is difficult or impossible to obtain, especially if the correspondent has incurred the displeasure of Soviet authorities. Others feel they are allowed to travel around the country reasonably well in the "open" areas. Many cities and parts of the U.S.S.R. are officially and absolutely closed to anyone but Soviet citizens. Officials told us they were constantly reducing the list of "closed" areas but we had no opportunity to check past and present lists.

One correspondent said the situation had eased considerably from the days of Stalin. "You think it's closed now," he said, "but in 1953, when he died, there had been no tourists from the U.S. for years and no tourists to the U.S. There were only three American correspondents in the U.S.S.R." (Seventeen attended a reception held for us by the American Embassy.)

Whatever the merits or demerits of the Soviet system of media control, we were forced to the conclusion that it works—from the viewpoint of creating a steady, all-embracing and thorough mental bath of government and party propaganda. Wherever we went, and no matter to whom we were talking, many answers to our questions came out almost exactly in the "official" language spread by the government-controlled press and broadcast media. These answers were quoted with conviction and assurance that could only mean unquestioning acceptance of the government version.

Never did we hear even so much as a mild comment of, "It might be better if we spent less on space and more on consumer goods." The official line is that both kinds of expenditures are necessary and good. And, certainly, we never heard anything resembling, "Of course, the situation in Czechoslovakia might have been handled better."

Such thoughts may well exist in the Soviet Union. They may be quietly exchanged between close and trusting friends. But they are not expressed in any public way that could attract support to a dissident or nonconformist idea. Information and thought-stimuli from outside the U.S.S.R. are severely limited. The mass Soviet brain is continually washed with controlled propaganda and little light from the outside world penetrates that communication curtain.

SOVIET INDUSTRIAL OUTPUT IMPROVING

(By Charles L. Bennett)

When Soviet industry managers talk about how their factories are doing, the yardstick they use to measure by is what's done by industry in the United States. Frank to admit their manufacturing capacity still lags far behind America, they make no secret of their intention, eventually, to match and surpass U.S. output.

With complete government control over all industry, U.S.S.R. planners set ever-increasing goals for all kinds of production and every sign of closing the "industry gap" is hailed as a major achievement.

Our touring group of editors visited a sprawling new textile mill outside Alma Ata, a plant manufacturing huge earth-moving trucks near Minsk and a factory making prefabricated apartment buildings in Leningrad.

Despite low productivity per worker, which Soviet managers acknowledge as one of their chief problems, and technology not yet approaching modern American standards, it was obvious from our inspection tours that Soviet production is improving and expanding rapidly.

Nikolai Baybakov, a deputy premier of the U.S.S.R. and chief of the national planning board, said the Soviet's economic growth rate hit 10 per cent in 1967. "That was a very high rate," he commented, "but we were unable to hold it. We think rates of 6, 7 and 8 per cent are good rates. But we are never satisfied. There is a proverb that says: 'When you get something, you want more'."

Along with the Soviets' own determination to do better, U.S. sources estimate that, with only about one-fifteenth of the world's population, Soviet industry already accounts for nearly one-fifth of the total world output.

Vast natural resources and hydro-electric power potential back up the Soviets' drive to industrialize. Fifty per cent of the world's coal reserves are available in the fields of eastern Siberia alone, with other major deposits scattered from the Komi fields near the Arctic Circle to the famed Karaganda basin in Kazakhstan. Some of the world's largest rivers flow through all parts in the U.S.S.R. and the hydro-electric installation at Bratsk, in Siberia and one of the world's largest is only one of scores already producing or planned.

Baybakov himself was instrumental in developing the U.S.S.R. oil industry. Major pipelines carry oil and natural gas thousands of miles to urban and industrial centers.

Diamonds, gold, rare earths, potassium for fertilizer, copper, lead and minerals of practically every known kind have been discovered in many parts of the country. While some of the deposits are already being worked, many remain untapped reserves of far greater size than even the Soviets can see any use for until far in the future.

Areas such as Kazakhstan, where only a generation or two ago most people were nomadic herdsmen, are being industrialized rapidly. Under the massive Soviet planning system, whole new industrial cities have been created in the Urals and on the Siberian plains. Central planning may decide a plant in Moscow should be, instead, 4,000 miles away in a new Siberian city. The order is given and the plant is moved.

"We are not in the city, but out here in the country," said Ivan Sidorovich, manager of the Belaz truck factory outside Minsk, "because the government wants to solve problems of full employment in this area. Mechanization had released part of the labor force from agriculture so, to put them to work, our plant was set up here and helps to solve the problem."

Decisions on what a plant is to produce and in what quantity and quality come out of the central planning machinery too, with national, Republic and even city governments cooperating in the final plans.

Central controls over the factories extend all the way from the appointment of managers to such matters as air and water pollution. When problems appear, government officials order the factory to take the necessary steps to correct them "or shut down"—knowing such an enforced shutdown would be a black mark on the record of any plant manager from which his career would never recover.

"At Lake Baikal," Baybakov said, "where we built a paper mill on the shores of this Siberian lake which holds 25 per cent of the fresh water in the world, we spent 25 per cent of the total cost of the plant just for high quality filters and other devices to prevent pollution."

The whole personnel situation in Soviet industry is fascinating, because it differs in so many respects from the U.S. approach. First, of course, the government is the only real employer. By law, no individual in the U.S.S.R. can hire anyone to do any work for him. Pay levels are low—averaging only 120 rubles a month for all workers although industry pay is slightly higher than the average for farm workers. Soviet factory managers make an interesting distinction between "workers" and "employees". It's something like our "white collar, blue col-

lar" difference. Workers, by and large, are those who do physical work—carpentry, running machines, driving trucks, digging ditches. The employees, generally, are secretaries, accountants, designers, managers—who do "think" work, rather than physical labor. But in another sense, everyone employed wants to be considered a "worker" because this is the magic word in the Communist lexicon—the "industrial proletariat" upon whom Marx and Lenin based the Communist-socialist theory.

Low pay levels are compensated to a degree by the "free" health, recreation and social benefits which, under strict government control, are provided for the workers. In many instances, hospitals, schools and even apartment housing for the workers are provided directly through the management of the factory where they work.

In the Belaz truck plant, 1,300 of the 7,000 workers are women, doing such jobs as electrical and mechanical assembly, running cranes and doing test and quality control jobs, among many others.

In the Belaz plant, the average age of all the workers is only 26 or 27, illustrating the importance of technical education available to the younger generation.

Technical training, on through engineering, is available to those who qualify and many with the necessary training become managers of major factories while still relatively young. Nikolai Yakoblev, manager of the housing plant, is 29 and, like many others, gained most of his education while working and studying nights.

At the Alma Ata textile mill, 200 of 5,000 workers were also studying college courses and 186 were in technical courses, while continuing full-time work.

Special training courses in the factories are run jointly by the plant management and the trade union, as are tests for job advancement. In all our meetings with factory officials, there seemed to be sort of a "triumvirate" management . . . the official manager, the top trade union official and the Communist Party secretary for the plant—or "commissar". It appears that the manager is responsible for physical operations of the plant, the trade union for guarding the interests and welfare of the workers, and the party official for their political education and morale.

Raisa Panova, the red-haired, green-eyed party secretary at the textile mill, whom one of our editors characterized as an "18-cylinder gal," said shop foremen generally are members of the Communist Party. This is because "They lead the political education classes for workers who are not going to any school." (Those in school or college get their political education there, along with other subjects.)

"The workers attend moral and political lectures," she said, "and we explain international affairs to them."

Typically in a factory, Manager Sidorovich told us at Belaz, about 10 per cent of the work force might be members of the Communist Party. "They are the 'front line' workers," he said. "I am a member of the party committee, too. The plant manager participates in the party, and the party participates in management of the plant. There are closely-knit ties. The best proof of the closeness of these ties is the good quality and quantity of production. It shows we work well together."

Despite their showing of statistics indicating steady improvement in production per worker, all three plant managers agreed that low productivity is a continuing problem in Soviet factories.

"It is one of our problems," Manager Yakoblev said at the housing factory. But it was much worse before 1917. As a young man, I can assure you we won't have this problem for very long."

The trade union official beside Yakoblev chimed in with: "Productivity is now increasing faster than pay."

Official recognition like being named to one of the honorary orders of workers, such as "Hero of Soviet Labor", is one of the incentives used to spur workers. Massive campaigns are launched to inspire them to greater productivity such as the drive this year and next to mark the 100th anniversary of Lenin's birth.

Leading workers pictures are posted on huge billboards at plant entrances as another form of recognition.

"We do have some of the usual problems with some workers," Yakoblev said at the housing factory, "such as absenteeism, drinking and woman chasing." Discipline for such offenses can range from official reprimands, through being assigned an unfavorable vacation time or not being given a pass to a rest home for his vacation, and on to having his picture posted as a bad example.

Discharges are unusual, Yakoblev said. "Our main goal is not to fire a person, but to keep him at work. If he's substandard and we fire him, he'll just go elsewhere and be a problem—so we might as well work with him here."

The housing factory and truck plant seemed to us to be safety engineers' nightmares. Floors in the truck factory were greasy and slippery and the safety guards and warning signs common to U.S. plants were totally absent. The housing factory was rather dark and full of hazards for unwary workers. We saw one woman hurt while we were touring the plant. It happened when another worker tossed a heavy iron rod out of a doorway and it struck her in the foot.

Yet the plant managers, unanimously, said their safety records were good. We couldn't get any statistics that were clear or could be compared to U.S. figures, but Madame Panova said, at the textile mill, "We have had only seven minor accidents in the past seven months."

Madame Panova mentioned one "trial" that Soviet managers apparently share with those in America—difficulty in getting some workers to use safety devices. "We try to get the workers in the loom area, where the noise level is high, to use earmuffs and provide them," she said, "but the workers just won't wear them."

Soviet technical and scientific institutes spend much of their time and resources creating the technology used in manufacturing plants and solving specific technical problems.

"Thirty-nine per cent of our budget is spent directly on projects to improve the economy," the deputy director of Kazakhstan's Academy of Science told us. "That's about eight to nine million rubles annually. In the past years, the Academy's science findings have created 80 million rubles of savings or profit for the Republic."

The textile plant manager said, "Only 3 per cent of our profit goes into research, but that is because we are a new plant."

Manager Sidorovich said of his Belaz truck plant, "This is the only plant of this kind in the U.S.S.R. So far as we know, there is no plant to equal this one in the world. The U.S. makes such trucks, but in small numbers at many different plants." His output, he said, is about 2,500 trucks a year, of all types.

When we asked about prices, he said "It all depends on where you sell and to whom." The "standard international price" though, he said, is about $2,000 per ton of capacity. That would make the standard price of one of the Balaz 27-tonners about $54,000.

"Eighty per cent of whatever profit we make goes to the government," Manager Dekin said at the Alma Ata textile mill. "The other 20 per cent we can use to improve the plant, build rest homes or culture palaces (recreation centers) or other benefits for our workers."

Despite vast differences in the Soviet and U.S. industrial systems, we learned, the "success story" of a hard worker who has moved to the top in Soviet management can have a familiar Horatio Alger ring.

The 42-year-old manager of the Belaz truck factory, when we asked how plant managers are chosen, said: "I use myself as an example.

"I was called for army service in 1942 when I was 17 and served seven years, longer than normal because of the war. This hindered my training, of course, but everyone has lots of opportunity for training.

"I began work in the Minsk automobile plant, as a fitter on the assembly line. There were many like me, who studied while working. I started in the sixth grade of evening school, and sat at a sixth grade desk at the age of 25. Despite this, I studied a lot and worked during vacations and all of my free time. This allowed me to go through two grades each year.

"In 1954 I got my matriculation papers for high school. I came to this (Belaz) plant in 1958, when it was just being built. I entered the Byelorussian Polytechnical School to study truck and tractor design. I continued working and went to evening school. I went for six years and graduated in 1960. I was a shop foreman by then. Then I advanced in my work and became head of the quality control department. At the end of 1961 I was named director (manager) of this plant.

"This appointment was on the basis of my qualification for the job. Much attention is paid to the authority of the person among his subordinates. Attention also is paid to whether he is a (Communist) party member. If I am entrusted to run a plant like this, I must be equally trusted by the party.

"I was talked to first (before his appointment) by various people, including the party committee. Then the minister of the auto industry of the U.S.S.R. issued an order appointing me.

"I am happy with the job that has been given to me and the trust placed in me. I have been twice elected to the Supreme Soviet (congress) of the Republic of Byelorussia, which is an honor. I also have been named Winner of the Red Badge of Labor and Laureate of the State Prize. Many of my colleagues have received similiar honors. Of course, it is very satisfying that your country recognized your work.

"I think every person thinks about what he will leave after him and it is very satisfying to see this huge plant where once was just a potato field."

THE AMERICAN ONCOLOGIC HOSPITAL—A 65TH ANNIVERSARY

HON. HUGH SCOTT

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Monday, November 3, 1969

Mr. SCOTT. Mr. President, November 7, 1969, marks the 65th anniversary of the American Oncologic Hospital in Philadelphia, Pa.

The American Oncologic Hospital is one of only nine hospitals in the United States devoted exclusively to the treatment of cancer and related diseases.

Pennsylvanians—indeed all Americans—can be justly proud of the physicians, employees, volunteers, and sup-

porting community members whose dedication and hard work has made this 65th anniversary possible.

DISTRICT OF COLUMBIA SCHOOLS: AN EXAMPLE TO BE AVOIDED

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. RARICK. Mr. Speaker, shortly after the Warren Court handed down its infamous Black Monday decision some 15 years ago, both the certified liberals and the confused "me-too-ers" promised that here in Washington, D.C., the Nation's Capital, school integration would be conducted promptly. The idea was that the District of Columbia schools would become the model for the Nation.

They have.

It is no wonder that decent Americans from one end of the country to the other, desiring to protect their children—desiring that the schools educate them—have resisted the ruin of the school systems maintained by their taxes.

The recent episode at one of the Washington schools last week, after which the faculty demanded a full-time police guard for the teachers, is a small indication of what other Americans will not tolerate in their cities.

I submit pertinent newspaper clippings for inclusion in the CONGRESSIONAL RECORD, as follows:

[From the Evening Star, Washington (D.C.), Oct. 27, 1969]

MACFARLAND FACULTY DEMANDS A FULL-TIME POLICE GUARD

(By Walter Taylor)

Teachers at a Northwest Washington junior high school troubled recently by disorders met this morning with top school administrators and demanded, among other things, a full-time policeman.

Almost all of the 49 teachers at Macfarland Junior High at Iowa Avenue and Varnum Street NW attended the meeting with Acting School Supt. Benjamin J. Henley and George R. Rhodes, assistant superintendent for secondary schools.

Even as the meeting was going on in the teachers' lounge, scores of students roamed the hallways playing radios, singing and threatening to go home.

At least half the teachers at Macfarland staged their own walkout Friday after a small group of students pelted a faculty member with eggs. The school then closed early.

William H. Simons, president of the Washington Teachers Union which backed the teachers' demands, said the faculty also demanded, besides the full-time policeman, an improved administrative structure, additional teaching personnel, the immediate repair of the school's bell system and the installation of an intercom system and "panic equipment" on all doors.

Simons said the union was in "full support of the faculty" and "their actions of Friday."

He said the walkout on Friday is "something that sometimes must occur to demonstrate the problems teachers sometimes face."

Rhodes, commenting after the meeting, said the teachers "pointed out some things we didn't know."

He added that he was "taking everything discussed at the meeting under consideration" and promised that some of the teachers' demands would be met "almost immediately."

Rhodes said an emergency repair crew would be at the school tomorrow to install the "panic" equipment—which allows doors to be opened from the inside but not from the outside. He also said the bell system would be repaired.

Rhodes said he would attempt to get a policeman assigned to the school "to keep outsiders away" but said only 50 officers are available to patrol more than 180 schools. "We may have to have a re-evaluation of our priorities on this regard," he said.

While the teachers met for nearly two hours with the administration, MacFarland's nearly 500 students were in the school's auditorium watching a movie. However, as the lunch hour neared, the pupils, supervised by a handful of substitute teachers and student monitors, began to parade through the hallways.

There were no serious incidents, however.

The egg-throwing incident at the school Friday is only one example of a "general breakdown of discipline" at MacFarland, teachers have charged. The school principal, Bertha Baylor, confirmed that the school has experienced several similar disorders.

In September five outsiders surrounded a male teacher who was struck above the eye, Mrs. Baylor said. On Thursday, a male teacher intervened when a student "pulled at" a female teacher, resulting in a scuffle and a heated verbal exchange, she added.

However, the walkout Friday, which caused school to be dismissed a half hour early, was the first this fall at any District public school.

[From the Washington (D.C.) Evening Star, Oct. 25, 1969]

EGG-THROWING TRIGGERS WALKOUT BY TEACHERS

(By John Mathews)

About half the teaching staff walked out of the District's Macfarland Junior High School yesterday, forcing an early closing. It was the city's first teacher work interruption over discipline this fall, after several incidents in spring.

Teachers say they will be back Monday.

Students pelting a teacher with eggs in a second floor hallway were the immediate cause of yesterday's walkout.

That incident was followed by a general breakdown of discipline with bands of outsiders roving in the hall. But teachers said yesterday's events were a "last straw kind of thing," the culmination of a series of incidents, including physical assaults on teachers, since schools opened in September.

Last night, after a 6-hour meeting of about 30 of the school's 49-teacher staff, Mrs. Marcia Derricotte, an English teacher who is building representative for the Washington Teachers Union, said the teachers planned to return Monday.

If the school administration does not act on a series of teacher demands, Mrs. Derricotte said, "I'm not saying we will walk out again, but we are not going to go on as we have. We do have a plan, but I can't disclose it now."

Charles Cheng, assistant to the president of the teachers union, said that Acting Supt. Benjamin J. Henley and George R. Rhodes, assistant superintendent for secondary schools, will meet with teachers at the school Monday morning.

The teachers at Macfarland, a generally middle-class school adjacent to Roosevelt High School in upper Northwest, are demanding added personnel to deal with discipline, security measures to control the entry of outsiders and some plan for dealing with problem and disturbed students.

"We also want a general meeting of teachers from all over the city to put our heads together and come up with solutions to problems we all have," Mrs. Derricotte said. She added, "There has been a trend to keep quiet about it (the discipline problem), but we think the citizens should know the full extent of the problem."

Since opening in September, District schools have been plagued with incidents, many caused by what has become the common enemy of most teachers and administrators—the "outsider." The term is used to describe teen-age dropouts and young adults who hang around and often enter the schools to mingle with students and disrupt activities.

On opening day, a teacher was beaten at one junior high, requiring hospital care. Since then, a teacher has been robbed in an elementary classroom, another has been stabbed by a student and gang threats and fights have caused several early closings.

WALKOUTS OVER SUSPENSION

Last spring, teachers walked out of two junior high schools. The issue then revolved about school board decisions requiring hearings before suspensions of students and the virtual elimination of dress codes. Teachers reacted, feeling their authority to control students had been undercut.

The Macfarland principal, Mrs. Bertha Baylor, said the school has experienced several incidents. Five outsiders surrounded a male teacher who was struck above the eye in September, she said. On Thursday, a male teacher intervened when a student "pulled at" a female teacher, resulting in a scuffle and a heated verbal exchange.

Teachers yesterday mentioned another incident that happened Thursday, but which Mrs. Baylor said was not reported to her. They had a group of boys, presumably outsiders, enter a classroom taught by a substitute teacher, and held their hands in their pockets, claiming they had guns. The teacher was pushed into a chair, her keys taken and she, with 30 students, was locked in the room.

Following the egg-throwing incident, Mrs. Baylor said she called a policeman to eject groups of outsiders roaming the halls. She thought the situation was under control when shortly after 1 p.m. teachers told her they were leaving.

Mrs. Baylor gathered the students in the auditorium from about 2 p.m. until 2:30 when she dismissed the school a half hour early.

"I don't approve or disapprove of the teachers' action, but I only wish they had informed me," she said. Teachers said 32 of the staff of 49 walked out, but Mrs. Baylor said no more than 21 left. Five teachers were absent yesterday.

MORE PERSONNEL SOUGHT

Mrs. Derricotte said the teachers had no basic complaint against the principal, but wanted either replacement of the two assistant principals or more personnel to control discipline. "In instance after instance we have asked for help on discipline matters and we haven't gotten it," she said.

Teachers also want locks on doors that would allow students to exit, but prevent persons from coming in during class hours. The union also feels that students should have a more meaningful voice in school affairs and better planned lunchtime recreation activities.

An added element contributing to the situation yesterday was the annual homecoming football game at adjacent Roosevelt High School. Mrs. Baylor in the morning asked the downtown school office to approve a 2 p.m. closing of the school, but was refused.

SYSTEMS BUILDING AND THE FUTURE OF CONCRETE

HON. WILLIAM B. WIDNALL

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. WIDNALL. Mr. Speaker, Mr. John C. Mundt, a senior vice president of the Lone Star Cement Corp., made a most interesting speech recently on the uses of the systems approach in homebuilding, and the use of concrete in it.

Industrialized housing production in the United States is lagging behind many other nations. If we are to meet our housing goal, set last year, we must build twice as many units per year as we are building this year. Mr. Mundt points to one approach we might take.

His speech follows:

SYSTEMS BUILDING AND THE FUTURE OF CONCRETE [1]

EXPERIENCE IN EUROPE

In Great Britain the Bison and Wates systems building factories are operating busily, turning out prefabricated modular concrete components for public housing. Of total housing starts between 20–30 percent will be built with systems in Britain this year.

Thirty kilometers outside of Paris, Camus concrete system personnel recently sold 250 houses on three weekends.

In Milan, the latest model Balency plant, neat as a pin, produces attractive concrete wall panels for both the private and public market. The walls and stairs are precast—the floors are cast in place. Systems can use either precast or readymix.

In Vienna, the city owns two Camus plants and competes with private precasters—but the competition is more theoretical than real, for the city plants are booked up several years in advance with city housing projects.

In Russia, 20 years ago after the war thousands of people in Leningrad and Moscow were homeless. Today hundreds of new systems—built apartments rise where the postwar "Shanghai" slum area of Moscow stood. In Leningrad, 67 percent of current residential construction is industrialized, according to city officials. Most of the new apartments in both cities are of concrete—and the newest apartments are far more attractive than the first generation monotonous rectangles. In Moscow each floor of one 1969 experimental apartment unit has a color TV room and small restaurant.

In Denmark, the government estimates a 15-20 percent saving in construction costs using systems.

We must conclude that prefabrication is making significant inroads in Europe through industrialized building methods. These methods are responsible for about 25 percent of all construction currently put in place, with a higher percentage for housing in Russia, and there are today literally hundreds of building systems available throughout Europe. Most of them use precast concrete panels and are designed primarily for the construction of high-rise, high-density housing. The components can be produced in either a large central manufacturing facility or in an on-site plant. The central manufacturing facility is by far the most popular.

If this is true in Europe, will systems building shortly sweep the United States?

In attempting to predict the future in our own markets, it is very important to understand the conditions in Europe that assisted the introduction of industrialized building. There are five factors that have been clearly influential:

1. First, in Europe, there was an acute housing shortage after World War II particularly in damaged areas, requiring speedy erection of shelter. The need to house large numbers of people rapidly created large concentrated markets congenial to industrialized, mass production, which appeared to be the only way of meeting the problem.

In Russia, massive precast concrete factories were established without regard to how the first generation apartments would look but with close attention to perfecting methods of mass production of components.

Similarly, in other parts of Europe after World War II, public sector construction of low income housing created a dependable volume of work and encouraged the formation of systems companies. Continuity of production and concentration of volume in and around urban areas was so attractive, in fact, that excess capacity developed. Over the years, strong systems construction organizations were established to supply this market, with the result that many names of European systems builders are becoming well-known in this country—Balency, Camus, Bison, Wates, Jespersen, Larsen & Neilsen, and others.

2. Second, official government sanction has paved the way for the widespread use of prefabricated components in Europe.

In Great Britain, systems building has benefited from the official British encouragement of industrialization. The government rebates the Selective Employment Tax (SET), which is 1 pound, 5 shillings per man per week, if the employee works in a factory, such as a Bison or Wates precast plant. In addition, in 1965 the Ministry of Housing announced that special consideration would be given local housing authorities using systems building.

In Russia, it is official policy to use concrete, mostly on a systems basis. In Leningrad, structures in addition to residential construction are also systems built. The Sovietsky Hotel and a new 4000 seat auditorium were built with concrete modules.

In Denmark, the government requires concrete components for all projects in which it guarantees the mortgage.

3. The third factor assisting systems building in Europe was the need to save on labor.

In Denmark an acute skilled labor shortage developed after World War II. Skilled labor went into factory work (where wages were higher than in construction) as Denmark became an industrialized country (exports of industrialized products jumped from 15 percent before World War II to 65 percent of total exports today). Systems building was a logical answer since unskilled labor could quickly be taught to produce and erect concrete components. In the Jespersen system it is estimated that unskilled manpower on the site can be reduced to ⅓ and skilled labor to ⅙ of traditional construction.

In Leningrad, the Deputy Chief of Design estimates that conventional construction requires 2.5 man/days per square meter of construction whereas only 1.5 total man/days per square meter are required for modular construction. Here again it was necessary that unskilled labor do the work—the 900 day seige in Leningrad killed 80 percent of the city's construction workmen.

In Denmark and Leningrad, therefore, systems building succeeded, at least in part, because of a skilled labor shortage. This was also true in Vienna and Paris.

4. There has been little labor opposition to systems building in Europe.

Throughout Europe a unique method has developed in calculating the pay of construction workers. Basically, workers are all paid on an incentive plan, consisting of a fixed rate plus bonus. The plan militates in favor of cost savings resulting from systems building.

In Russia, incentives are common in the housing factories, with a 25 percent premium over monthly base pay for those who exceed quota. In addition, the winning employees have their pictures mounted on bulletin boards at the plant entrance, near the bust of Lenin!

In the Balency plant in Milan, 20–30 percent of company workmen study at night with tuition paid by the company. They are aware that time and motion studies are carried out regularly in the plant and as a consequence they have often requested new machines to assure more productivity.

We should also note that at the same time these events were occurring, the European work force, in general, was fully employed. This too, meant that little opposition—based on fear for job security—to systems developed.

5. Fifth, in most countries there is a single national building code. Systems builders, therefore, encounter few code problems.

In Great Britain, Model By-Laws (MBL) for building throughout Britain were adopted in 1962–1963 and superseded local building codes.

In other countries, the fact of official sanction for the use of concrete components and a single national building code have eliminated this possible obstacle as an issue.

To recapitulate, the marketer of systems building has had everything going for him in Europe: a severe housing shortage, official government approval, a skilled labor shortage, little or no opposition from unions, no code complications.

How, we must now ask, does this foreign experience apply to the United States?

Let us determine whether the same factors assisting industrialized building in Europe are present in America. It is clear that they are not.

1. First, whereas there *is* a housing shortage (vacancy rates are at record lows), there is no sizable, continuing low income housing program comparable to Europe's. We have been long on talk and short on action; we have Phases I and II of Operation Breakthrough, but we do not yet have Phase III—actual creation of an aggregated mass market upon which possible investors in systems building can rely.

The Kaiser Commission concluded that 7.8 million households in the United States are unable to afford decent housing, yet during the entire history of Federal activity in this field only 800,000 low income units have been built. Thus, in a third of a century, Federal efforts have met only one-tenth of the nation's subsidized housing needs.

Comparing European and American low income housing, we lack two things: aggregation of market and continuity of program.

2. Second, there is no official government sanction in the United States establishing a preference for systems or for concrete. Nor should we expect such a policy preference in the near future. Most of our houses are still built of wood, and in a traditional manner.

3. Third, we are experiencing a developing shortage of skilled labor in the United States that could ultimately ease the way for industrialized building. However, it was the conclusion of the Battelle study on "The State of the Art of Prefabrication in the Construction Industry," that the overall supply of labor would be sufficient to meet the demands of the construction industry through 1975.

4. Fourth, there has been union opposition to technological change in building con-

[1] Statement by John C. Mundt, Senior Vice President—Marketing and Public Affairs Lone Star Cement Corporation. Fall Meeting, Concrete Reinforcing Steel Institute, Jackson, Mississippi, October 23, 1969.

struction, such as the now famous Philadelphia Door case, a legal hurdle not present in Europe. The Tower amendment seeks to reduce constraints on technological innovation.

We must conclude, however, that the subject of construction manpower is more complicated in the United States than in Europe, where the future of industrialized housing is concerned.

5. Finally, our building code situation is much more troublesome than Europe's.

Because of substantial variation in code standards for specific components between marketing areas, the potential of the sectionalized home in the USA is more seriously hampered than in Europe. Many products and materials are accepted in some large cities and rejected in others. Precast and prestressed concrete components have been fighting a long uphill battle to gain universal acceptance—only recently was the way cleared for the use of prestressed units in New York City.

This is a countrywide problem. I am told by architects in Massachusetts that California systems are not applicable under the Boston Code. In Florida, 67 counties each have separate county codes—a contractor who qualifies in Dade County cannot build in Broward County without requalifying with a tough exam, mostly directed to exceptions to the Uniform Building Code.

In the Cleveland area, over 50 separate building codes are in effect. Take one small example of the result. The State of Ohio has a live load requirement for roofs of 25 pounds, Cleveland requires 30 pounds, and Akron 40 pounds. A systems builder could not, without waste, produce the same standardized component on a repetitive basis in this market.

The basic point of difference here between Europe and the United States is that central planning and control is characteristic of Europe with its national building codes. In our country land development has been regulated primarily by local government. As a result, builders, lenders and real estate brokers must cope with a new set of rules each time they enter a new market.

To recapitulate then, the marketer of systems building in the United States does not have the same factors helping him as his counterpart in Europe: there is neither aggregation of low income markets nor continuity of demand; manpower considerations complicate the picture; there are serious code problems.

It would be unrealistic to contend therefore that because systems building has succeeded in Europe it will *ipso facto* succeed in the United States. If it does succeed in the United States, it will have to be our own system, adapted to our own requirements, taking into account our own problems. We have not yet done this. The best evidence of this is that the largest current residential project in the United States, the $300 million Co-Op City project, is being erected with reinforced, poured-in-place concrete though there was certainly sufficient volume and continuity to support use of industrialized components.

FUTURE OF SYSTEMS IN THE USA

Does all this mean, in considering the future of concrete, that to be realistic we should discard any notion of a systems building future?

Before going further into this in detail, three quick comments are in order: (1) lest you consider me gloomy about American housing progressiveness, let me state that our 66 million housing units are still a marvel of production, leading the world in comfort and amenities—we provide 1.48 rooms per inhabitant (highest space per capita in the world); (2) none of the obstacles to industrialization we have mentioned (labor, codes, tradition, inadequate concentrated volume) are technical in nature; and (3) industrialization would increase concrete consumption. There is twice as much concrete in a European industrialized apartment of 1,000 sq. ft. using concrete panels as interior and exterior walls. If 20 cubic yards of concrete are used per living unit in conventional construction, 40 yards are used in European industrialized public housing. Applying the same increment to the 600,000 low income housing units needed each year in the United States would mean another 12,000,000 cubic yards of concrete annually in this one market alone. So we have a volume stake in systems building.

Now what of the future?

You are all probably aware that the Battelle and Kaiser reports were both essentially cautious about the future of prefabrication. The Kaiser report concluded that many technological breakthroughs failed to succeed, not because of artificial constraints on their use, but rather because they simply turned out to be more expensive than existing techniques. The Battelle study concluded that initial building cost reduction, derived from prefabrication, has not generally met expectations. If apartments can be built for $13 per square foot by conventional construction, industrialized components will not be used unless they are cheaper and equally attractive, marketing-wise. The Kaiser report found that manufacturers of prefabricated houses have been successful "primarily where they have not had to compete with modern line assembly operations on the sites themselves."

The latter point is important—for we have more systems building in America than we think. Technology in construction has not exactly been stagnant. Industries ancillary to construction have spent sizable sums on R&D. As a result, electrical services installed in a home are much more sophisticated today, as are heating, air-conditioning and appliances. In our industry, the advent of ready mix trucks, tower cranes and concrete pumps has revolutionized the placing of concrete. All sorts of pneumatic equipment permit greater productivity by construction crews. Contractors use PERT and CPM scheduling. Architects specify more and more prefabricated assemblies, knowing of the shortage of skilled labor. These changes have come in small increments, without the fanfare of dramatic discoveries—yet it is against this ever more effective construction process that full-fledged systems building must compete.

After all of the obstacles to systems building are listed in detail, it is still not possible to discard industrialized building on the basis of its present record in the United States for the simple reason that it has never been tried on a really large scale. A. Allan Bates, Director, Office of Standards Policy, Department of Commerce, flatly asserts, after studying Soviet methods, that, if an aggregated market develops (on the order of 5000 family units per year per factory), American industry could produce low cost housing of the required quality for $5 to $6 per square foot ("Low-Cost Housing," *Civil Engineering*, September 1969, pp. 44–48). Mr. Bates calculated this saving on the structure alone. Nor is Mr. Bates alone in these assertions. Throughout much of Europe, construction savings of 10–20 percent are not uncommon for industrialized building, plus all of the ancillary savings that flow from speedier construction.

The ancillary savings are very important. It should be made clear that "systems building" includes far more than the structure itself. In its broadest sense, it embraces every step from start (land acquisition, land development, and basic design) to the finished structure (its management, maintenance and rehabilitation). Systems building is essentially rationalized building and is as much a function of software as hardware.

The rising cost of construction will greatly assist the advent of systems. In 1967, according to Department of Commerce figures, the average annual earnings for craftsmen and operatives in the construction industry were $7,161 compared with $6,374 for craftsmen and operatives in manufacturing. The old pattern of high hourly rates and low annual incomes in the construction industry has been broken. We now have a pattern of high hourly rates and high annual incomes. If the Kaiser Commission was correct that in construction and homebuilding together, 1.8 men are required to fill every average yearly job, a higher ratio than in any other industry, costs are further inflated and we have a most expensive situation. If this sort of trend continues in the construction industry, labor will simply price itself out and industrialization in.

The possibility of substantial savings on a mass market basis and the opportunity of applying systems know-how to building is enticing new companies into the construction industry. These large firms will be able to bring immense pressure on code or labor restrictions—whenever these restrictions complicate the introduction of aerospace and other assembly-line techniques. Given a big enough market and given continuity, there is no question that American ingenuity will rise to the occasion and effect real cost reduction, without sacrificing aesthetic value. Systems building, at less cost per square foot, cannot be stopped—owners will demand structures at the lowest prices—within quality regulations—and will insist that savings be passed on to them.

Accepting the fact that systems building is inevitable, when and how rapidly will this come about?

Gentlemen, I have a definite personal opinion about that. I believe systems building is already with us to a substantial extent, that we will see more and more of what is better described as rationalized construction, and that further change will come with real acceleration. But the point I want to make today is really another point. Our whole social and economic structure calls for highly individualistic, democratic-if-you-please, procedures. As these procedures have been applied in the construction industry, we have accumulated a mass of hobbling restraints on innovation. My plea to you today is this: as we preserve our free institutions and commercial structures, let us make certain that they are flexible enough and open enough to embrace change. If systems building, on the merits, is a superior approach to the construction process, artificial constraints in the way should be removed. We have already noted that the obstacles to systems building are non-technical in nature. They are concerned with such matters as the fragmented structure of the industry, tradition, and labor and code complications.

There is one other related obstacle. The floundering of our low income housing program, the ups and downs in the highway and public works program, and the fluctuations in construction employment, result from an unclear definition of national priorities. As things stand now, housing is considered postponable, our program for eliminating urban blight is inconstant, and the effort to solve traffic jams in our cities is one of starts and stops, in more ways than one!

The reason for inconstancy of policy has been the failure to reach national conclusions about this matter of national priorities. It is high time that we as a nation came to real grips with this—fortunately there are signs that a comprehensive national debate to determine national priorities has begun. As citizens, and as representatives of our companies, we have a clear obligation to participate in this debate and make our voices heard.

In order to guarantee needed flexibility in the construction industry so that it will be sufficiently open to innovation and change,

there are a number of things that you and I can do. To demonstrate the practical application of these suggestions, let us relate them to housing, though they apply to other segments of construction as well:

1. As regards codes, our architectural-engineering-contracting fraternities and local officials should pay immediate, concerted attention to the elimination of building code anachronisms and inconsistencies. This is tiresome and unremunerated work, but it is best carried out in each community and state. Otherwise, there will be increasing pressure for federal takeover of the field. Local officials and businessmen should not abdicate their responsibility so that Federal pre-emption becomes necessary. It is obvious to all that the existing crazy-quilt of state and local building codes and mechanical codes burden and restrain interstate commerce in construction, frustrate housing programs for low and moderate income families, and discourage innovative building systems. As a minimum, we should seriously consider a uniform building code for each state.

2. We must convince labor that, if the volume of housing is sufficient and there is continuity, their problems will be less severe.

The answer to labor opposition to systems and innovation is the development of a satisfactory, national homebuilding program of sufficient size and continuity, for with such a program would come a dependable, yearly rate of earnings for construction labor. For example, if the United States jumped from an annual rate of 1.5 million new housing starts to 2.6 million, it would be clear that proposed technological advances would not be designed to supplant workmen but to supplement their job opportunities, through greater volume and continuity of compensation.

3. We must undertake a revision of our financial, tax and mortgage regulations. This is a vast and complicated area—a challenge to our tax experts, the American bar, the financial world, the tax committees of the Congress and the Treasury. Notice again that technology is not the problem.

Time does not permit a complete statement here of all that is involved, but permit me to make these assertions:

(a) Our current real estate tax policies penalize rather than encourage an owner to improve his property. Fear of increased tax assessment deters rehabilitation. Tax structures should be devised that penalize the unproductive use of land and offer incentives to new housing and rehabilitation.

(b) Longer term mortgages would reduce the ever greater burden of interest and amortization payments that now deter so many families from building their own homes. Imagine what 50 year rather than 25 year mortgages would do to the ability to undertake mortgage payments for young families and others who shy away from ownership.

(c) The total amount of taxation on real property is too high. Property taxes may represent 25–30 percent of monthly shelter costs in moderately-priced single-family housing, and some 15 percent in elevator apartment units. The increasing presence of abandoned or vacant housing in slum areas is evidence that something is wrong. If Federal income sharing with the states becomes a fact, we should consider making Federal grants conditioned on partial abatement of the property tax.

(d) One more little item to start you thinking: in Moscow and Leningrad, under subsidized housing, a person spends only 3–4 percent of his monthly income for rent. In London the renter in public housing pays about ⅙ of his earnings, plus gas and electric. In the United States we talk about 20–25 percent—this is far too much for a low income family.

4. We must assure HUD sufficient R&D funds, in proportion to the importance of housing to the economy, and see to it that these funds are expended by private companies, individuals or universities as the most efficient way of conducting research. In 1966, HUD's R&D expenditures were only 1 percent of those of the Department of Agriculture. Such a disproportionate allocation of funds is indefensible in view of the nation's housing needs. We must also make clear that private R&D expenditures in the construction industry are not practicable under conditions of inconstant, widely fluctuating demand. There are any number of promising areas for R&D work related to construction: the elimination of seasonal construction patterns, the development of new low cost means for transporting complete housing units or components, increasing densities without losing amenities, the trade off relationship between initial costs and subsequent operating and maintenance costs, the costing of design alternatives, the cost effectiveness of alternative assembly techniques. Americans spent over $25 billion a year on residential construction and upwards of $100 billion to buy, rent, operate and maintain their places of residence. An R&D effort commensurate with this volume should be able to save millions in national resources each year.

5. We must see to it that any efforts to "fine-tune" the economy with fiscal and monetary policies fall equally on all segments of the economy and not disproportionately on housing, highways and construction, as has been the case in the past. This can be accomplished by industry advocacy at the right policy-making levels. If the nation is to solve its social and economic problems, it can no longer turn its construction programs on and off every few months.

6. We should affirm that private enterprise should be the principal vehicle for meeting housing needs. We have seen a slow evolution of thinking in America toward this position. Public housing was born with the passage of the United States Housing Act of 1937. The theory of this early legislation was that the development, ownership, and management of housing projects are the responsibility of local government bodies. Down through the years the responsibility has evolved with loans to nonprofit sponsors of rental projects for the elderly and handicapped (1959), loans to limited dividend entities and cooperatives (1961) and finally to private developers. The basic policy trends since 1937 have been in the direction of increased reliance on private development, private financing, private ownership, and private management of subsidized housing. We should continue to encourage this concept and secure the passage of legislation to make it feasible.

7. Finally, we should not be hesitant to push concrete forward as the most logical building material of the 70's. The most strategic use of our national resources gives concrete a decided edge.

America imports 40 percent of the iron ore it processes, with a consequent drain on our balance of payments. We also import large amounts of petroleum. Use of steel shapes in construction and asphalt in roads therefore suffers a fundamental disabiilty on this score.

The use of timber for housing may become increasingly a luxury. There is rising public pressure for preservation of large timber tracts. Moreover, consumption of timber will exceed production within a few years and timber—as well as iron ore and petroleum—will of necessity have to be considered for more strategic uses.

Concrete, on the other hand, can be manufactured from relatively unlimited national resources—sand, aggregates and calcareous materials from which portland cement is made.

We can make a strong case that in our housing and highway programs during the next few decades our most unlimited building resource should be used first—concrete. The Russians appear to have made precisely this determination, as have other European countries.

I think the conclusion we must reach in these seven matters is that taxes, subsidies, financing, enforcement of building codes, income maintenance and manpower training are all related. A decent house in itself is not enough. All of these subjects must comprise a consistent package and should be carefully re-evaluated so that they produce positive results. They must all be considered simultaneously.

CONCLUSION

In conclusion, gentlemen, our industry should plunge actively at every level into the developing debate over national priorities. We must make certain that our economic system is capable of solving our problems—that our system is relevant to its age.

I am confident our system is sufficiently resilient, productive and strong to meet the challenge. Let me remind you that our principal competitor, the Soviet Union, is successfully housing its citizens, and today may actually be presenting more convincing housing solutions to the developing world than we are. Putting men on the moon could turn out to be a pyrrhic victory if we cannot put adequate roofs over the heads of our citizens.

A final comment about the decade ahead. It is my impression that we are living in an almost revolutionary moment in which the conscience of the country is increasingly aroused. We were proud to put the first man on the moon, proud of our progress in technology; but we are disturbed about lack of progress in solving our human problems, in improving our environment, or in even providing adequate housing. At times a democracy is most cumbersome! If we were in the Soviet Union, we could concoct a Soviet plan and simply decree—

That government apartments will be built for all, of modular concrete components.

That large central heating plants will be used for surrounding blocks of apartments as this is the most efficient manner of heat generation.

That highways will not go through cities but around them in order to reduce noise and pollution (Moscow has a 127 mile circumferential highway), and

That there shall be greenery and sanitary protection zones between industrial and residential areas.

Sounds easy. And it saves time. But we do not operate in this manner in a democratic society for we value our individual freedom too highly.

We must therefore remind ourselves that the freedoms of democracy carry an extra burden for citizens: the burden of spending time to make our system work. The freedom and burden of democracy for the citizen are worth preserving but the test of our system is that it be sufficiently flexible and practicable to solve problems—to solve them more quickly, and completely, and to solve them better—than would be the case under rival systems of government.

As de Tocqueville long ago stated: "The success of a democracy may be measured by the quality of functions performed by private citizens."

I hope these last remarks will not sound too general—they need not be, for no industry or product are more relevant to solving such problems as the housing or traffic problems than the concrete industry. We must accept the responsibility as citizens and as representatives of our companies, to participate in the making of the necessary public and private decisions. This is a time-consuming challenge. But if we accept the challenge and succeed, our lives will be more productive and rewarding than would be the case under a more dictatorial governmental

system, where citizen opinion and integrity are unimportant.

WHAT'S RIGHT WITH AMERICA

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. MONTGOMERY. Mr. Speaker, these days when we are hit from all sides with a great deal of verbage on everything that is supposedly wrong with our Nation, it is refreshing to find people who still believe we have a great and wonderful country and are willing to put their feelings into words for others to read. I commend the following editorial on "What's Right With America" to my colleagues. It appeared in the Winston County Journal in Louisville, Miss., which is edited by Joe T. Cook:

WHAT'S RIGHT WITH AMERICA

(By Joe T. Cook)

Some of us are getting a little tired of all the emphasis on what's wrong with America.

Certainly, this country is not without fault; and it is right and proper that a great and free people should know its faults and seek to mend them.

But, if the left-wing broadcasters and the liberal press had their way, Americans would conclude that all public officials are corrupt; that war is being prolonged by greedy, profiteering industrialists; that rioting and anarchy are in control; that we are waging an aggressive war against a poor, defenseless people; that dope addiction and alcoholism are universal; that racial discrimination and poverty have made of us a third-rate nation, utterly incapable of world leadership; in short, that the skids are under America the Beautiful, the home of the brave and the free—and that it won't be long now.

Well, we have news for the liberals, the socialists, the communists, the draft-card burners, the drop-outs, the hippies, and the traitorous "peace" propagandists.

Instead of everything's being wrong with America there are countless thousands of things that are right with America. Here are just a few of them:

This country still offers the greatest opportunity to be found in the world for those who want to work, discipline themselves, and sacrifice in order to enjoy the fruits of a free enterprise system.

America offers the greatest freedom in the world. No other major country provides complete freedom of speech, of press, of assembly, and of religion.

This country has unquestionably the highest standard of living in the world. We have twice the standard enjoyed in Western Europe, and four to five times the standard found in Eastern Europe and the Soviet Union. No other country remotely compares with the United States in this respect.

While we have a vocal minority who irresponsibly demonstrate on every supposed wrong in this country, we still have the great silent majority, who still work, educate their children, pay taxes, worship God and patriotically support their country.

We can be thankful for the courage, dignity, and dedicated leadership of President Nixon and his family. We can be thankful that he cannot be stampeded by any street demonstration that happens along.

The Nixon Supreme Court appointments are most encouraging and a part of what's right with our country.

We should bow our heads in thanksgiving for the country's faithful spiritual and moral leadership—men like Evangelist Billy Graham and countless other pastors and religious leaders of lesser prominence but equal dedication—who have the courage to point the way of righteousness.

We can be genuinely grateful for commentators and newsmen—men like Paul Harvey—who are unafraid to call it like it is.

We can point with genuine pride and hope to the countless young people of our nation whose ideals are high, whose morals are sound, whose faith is strong, and who love their country.

While we have, and will continue to have in the future, some bleeding-heart, liberal, demagogic Senators and Congressmen, we still have a hard core of realistic, patriotic, courageous statesmen that try to keep the ship of state on an even keel even though the waters around them are turbulent and threatening.

We can be thankful that our government is conscientiously trying to strangle the inflow of dope from Mexico and other countries.

It's right and good for the General Federation of Women's Clubs to conduct at nationwide campaign against pornography, vile movies, and smut literature, a great part of which is known to be inspired by communist organizations determined to undermine the moral fibre of our nation. (As a matter of fact, world communism has boasted that it will so undermine the morals of this country that our youth will not have the desire or be strong enough physically to defend our country.)

It's right with America when people, like those recently in Memphis, will dare to become involved to protect the lives of innocent people from deranged criminals and murderers.

Yes, there is a lot that is right with America.

As we approach our Bi-Centennial in 1976, let's set as our goal an emphasis on patriotism and loyalty to country, rededication to God and the great principles of the Bible, reaffirmation of our faith in the free enterprise system that has made our country the greatest in the world, to helping the minority groups of our country to help themselves with dignity and self-respect, to repudiation of the subversive forces that would infiltrate and weaken our nation, and to re-assuming for America the role of the great symbol of freedom and opportunity and leadership and helpfulness for all the peoples of the world.

PRESIDENT'S MESSAGE ON CONSUMER AFFAIRS

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1969

Mr. ANDERSON of Illinois. Mr. Speaker, "Caveat emptor"—"Let the buyer beware"—is a slogan coined by the ancient Romans. A few unscrupulous merchants and producers still follow that motto. Fortunately the President's message to Congress on consumer affairs offers a new approach. "Let there be justice for the buyer."

The President presents in that message what he calls "a buyer's bill of rights," and I believe that his comments in this regard are well worth noting.

He speaks first of the consumer's right to choose—but, the President notes, the consumer also has a right to accurate information about the products from which he is making his selection. He has a right to be sure that his health and safety has been fully taken into account. And he has a right to have his complaints heard and fairly considered. All of these rights, as the President understands, are less easily achieved today than they were for past generations, for both our marketplace and our products are far more complex than they were, far less easily understood by the average purchaser. When someone takes advantage of him, there is often little that he can do about it.

The President's message tells us what Government and the people, working together, can do about it. He presents us with a program which is fair to both the consumers and the suppliers of goods and services; one which will move against deceptive or unfair businessmen without harassing or restricting the honest legitimate majority. This is an important fact, I believe, for, in the end, the best interests of buyers and sellers must inevitably coincide. I hope the President's proposals will receive prompt and favorable attention from this body.

WEIZMANN INSTITUTE CELEBRATES 25TH ANNIVERSARY—A TRADITION OF EXCELLENCE IN RESEARCH

HON. ROBERT TAFT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. TAFT. Mr. Speaker, on Sunday, the famed Weizmann Institute of Science, in Rehovoth, Israel, began a weeklong celebration of its 25th anniversary.

From humble beginnings, this research complex has grown into a world renowned center for advanced study in the fields of molecular biology, theoretical geophysics, nuclear physics, and the study of arid zones.

The 1,600 employees, including 250 full-time scientists, have earned an international reputation.

I take great pride in the fact that my fellow Cincinnatian and personal friend, Dr. Albert Sabin has been named the new president of the institute. We wish him well in his new responsibilities and are confident that he will carry the institute on to even greater achievements.

On October 20, President Nixon conveyed his congratulations to the institute on its 25th anniversary. I am happy to include the President's remarks, and join him in extending hearty best wishes from the American people:

MESSAGE OF PRESIDENT RICHARD M. NIXON TO INTERNATIONAL TRIBUTE DINNER, OCTOBER 21, 1969, HONORING THE WEIZMANN INSTITUTE OF SCIENCE AND ITS PRESIDENT, MEYER W. WEISGAL

OCTOBER 20, 1969.

Mr. DEWEY D. STONE,
Chairman, American Committee for the Weizmann Institute of Science, New York, N.Y.

As the Weizmann Institute of Science reaches the quarter century mark in its inspiring history of service to humanity, I am happy to extend the warm congratulations of the American people to its members.

From a meager beginning just twenty-five years ago, the Institute has become a widely recognized center of excellence in the fields of research and graduate training in the nat-

ural sciences. It has indeed been a worthy memorial to Dr. Chaim Weizmann, scientist, statesman and proud patriot of the State of Israel.

Reflecting his magnanimous human spirit, through its remarkable contributions to man's capacity to improve his well being, it has inspired, as he did, hope in a better future and courage to persevere through present adversity. Lifting men's hearts and minds to an unrelenting pursuit of knowledge and of wisdom, you have speeded the pace of progress and constructive achievement.

Its members have surely earned the admiration and gratitude of all peoples.

RICHARD M. NIXON.

AMERICAN ONCOLOGIC HOSPITAL MARKS 65TH ANNIVERSARY

HON. JAMES A. BYRNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. BYRNE of Pennsylvania. Mr. Speaker, one of Philadelphia's significant institutions, the American Oncologic Hospital, will observe its 65th anniversary on November 7, 1969, and I should like to take this opportunity to share with my colleagues something about the history and services of this highly specialized treatment and research center.

Founded in 1904, the American Oncologic Hospital is one of nine in the country, and the only one in Pennsylvania, devoted exclusively to the treatment of cancer patients. Its impressive record includes the pioneer use of radium in cancer treatment and the installation of a supervolt X-ray therapy unit, the first in the Philadelphia area.

Located since 1911 at 33d Street and Powelton Avenue, American Oncologic affiliated with Jeanes Hospital and the Institute for Cancer Research in May 1966, to form the Fox Chase Center for Cancer and Medical Sciences. The hospital moved to Central and Shelmire Avenues in December 1967.

Situated on land made available by the trustees of Jeanes Hospital, with an enclosed bridge connecting American Oncologic and Jeanes, the center is aimed at waging a coordinated attack on the dread disease of cancer, by placing, at one location, the very best in resources, talent, and patient care.

The Fox Chase complex, a multimillion-dollar project, stands out in the medical field as a major center—combining laboratories for both basic and clinical research and hospital facilities for the diagnosis, study, and treatment of cancer patients.

During the fiscal year ended in June 1969, the American Oncologic Hospital admitted for treatment 1,239 patients, representing a 42 percent increase over the previous year. Patients received 17,546 days of nursing care, with the average length of patient stay 14.2 days.

Outpatient services during the year saw a similar substantial increase. To be exact, a 14-percent increase was registered by 9,045 outpatient visits, and cobalt treatments, which came to 7,558, increased by 11 percent over the previous year.

Recognizing the psychological as well as physical needs of cancer patients, American Oncologic, designed by the Philadelphia architectural firm of Vincent G. Kling and Associates, boasts a noninstitutional environment that unites the patient with nature, to offer a feeling of harmony, hope, and reassurance.

The building lends itself to an excellent arrangement of interior spaces, with bedrooms divided into small groups of no more than six two-patient rooms on each segment of the three nursing floors. Every unit is served by lounges, solariums and terraces, and bedrooms look out upon landscaped grounds and wooded areas.

Outpatient facilities, prepared to accommodate 30,000 annual outpatient visits yearly, include three waiting rooms surrounding the 2½-story lobby. Focal points of the lobby are clusters of sculptured metal leaves—a gift from the Women's Board—suspended from the ceiling, and tubs of live plants suggesting an arboretum.

A nonprofit, nonsectarian institution, American Oncologic does not receive support from any governmental or private agency. The treatment and research institution thus needs the support of many individuals and corporations to maintain its modern conveniences and standard of excellence.

It is indeed a model of what can be done in the never-ending fight against disease.

SPACE EXPLORATION

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. TEAGUE of Texas. Mr. Speaker, the University of Texas at Austin produces a weekly radio program entitled "Insight: Campus '69" in which discussions are held as to the ways the modern university can assist in meeting the needs of our society. Recently, with Mr. Joe Gwathmey as moderator; Dr. Norman Hackerman, president; Dr. Harlan Smith, chairman of the astronomy department; and Dr. Irwin C. Lieb, chairman of the philosophy department, all of the University of Texas at Austin, discussed space exploration and man's future in this new environment. The panel discussion went far beyond the useful analysis of the immediate future and examined the more profound aspects of space and its utilization for science and man's intellectual and material growth. Because of the significance of this discussion I commend it to my collegues and to the general public. The panel discussion follows:

INSIGHT: CAMPUS '69

"Insight: Campus '69"—A series of discussions about the ways in which the university of today is helping meet the needs of our society. Your host is Joe Gwathmey.

JOE GWATHMEY. As most of the world watched and cheered the successful moon landing of Apollo 11, this most ambitious of ventures inspired sharp and lively debate among scientists, philosophers, even poets and others who ponder men's actions and motives. Many think it hopeful that the moon trip may release another burst of human energy, that the world can be transformed as it was during the Renaissance. The moon landing itself, described by one noted astronomer as being the most dramatic single achievement of this time, only opens the door to countless other technological discoveries and advances. We will be talking about space exploration on this program in the series "Insight". Among our guests, as usual, is Dr. Norman Hackerman, President of The University of Texas at Austin. Dr. Hackerman, is The University of Texas at Austin directly involved in the study of the universe and space exploration?

Dr. HACKERMAN. Yes, the University is deeply involved. As many of the people who are listening know, we have completed the installation of one of the world's major telescopes at the McDonald Observatory on Mount Locke in West Texas, at which place the University also has several other major facilities. This potentially has greatly expanded our contribution to the study of space and the universe. The research programs now being conducted at the Department of Astronomy at the University involve the training of a significant share of the nation's Ph.D. graduates in astronomy. The use of the facilities at McDonald for experiments connected with the recent moon landing are also of importance. This is the retro reflector that some of the listeners may have heard about—which experiment will go on for a very long time indeed. So we are very definitely involved in astronomical research and space exploration. In fact, I believe one of the members of the next crew—the Apollo 12 crew—is a U.T.-ex, Commander Bean. U.T. Austin is also a member, among a number of consortia, of the Association of Universities for Research in Astronomy, Inc. This group operates the Kitt Peak National Observatory just west of Tucson, and also has established an observatory at Cerro Tololo in Chile, where our scientists, as well as others in this country and other countries, will be able to study the skies of the Southern Hemisphere, perhaps as well as we now can study the Northern Hemisphere's skies.

JOE GWATHMEY. Thank you, Dr. Hackerman. Also among our guests on this program is Dr. Harlan Smith, who is chairman of the Astronomy Department at The University of Texas at Austin. Dr. Smith is also director of the University's McDonald Observatory in West Texas. He came to the University from Yale University in 1963. Dr. Smith is author of an award-winning series of film strips on astronomy entitled "The Story of the Universe", and he has served as co-editor for the Astronomical Journal. He holds degrees from Harvard University. Dr. Smith, Dr. Hackerman referred to the involvement of McDonald Observatory in the recent Apollo 11 landing. Could you tell our audience something about the University's experiments?

Dr. SMITH. Yes, they all go farther back I think than even Dr. Hackerman knows. We were involved in the moon program before it was born. The 82-inch telescope at the observatory, which has been there about thirty years, was used for some years to take high resolution photographs of the moon back in the day when that was the only way to do it—before any orbiters had reached the moon. The major maps of the moon were made, to a considerable extent, from these photographs, and these were used for the original Apollo site reconnaissance studies. So, in this sense, our involvement began twenty or thirty years ago. But, of course, the current involvement is the exciting one. The retro-reflector that was put on the moon by the first astronauts is an incredibly small thing—just a little over a foot square. And it's a quarter of a million miles away. Somehow we have to throw a beam of light at it from the earth—throw a kiss to the moon, as one

reporter put it—and pick up a reflection from that little object a quarter of a million miles away. This needs a giant telescope, a very powerful reflector, and not just a large telescope, but one that can be aimed with precision that is at or almost beyond the state of the art. Our new 107-inch apparently is capable of this. We've had some successes and expect to continue with this program now for as much as ten or twenty years.

JOE GWATHMEY. Also among our panel is Dr. Irwin C. Lieb, Chairman of the Philosophy Department of The University of Texas at Austin. Dr. Lieb is interested in both the humanities and the sciences, and especially space exploration and travel. He was formerly a member of the Yale University faculty and also taught at Connecticut College. Dr. Lieb holds degrees from Princeton, Cornell, and Yale. Dr. Lieb, what is the role of the philosopher in aiding man to understand the significance of space exploration and its impact on the individual and on society?

Dr. LIEB. Well, I'm not sure, Mr. Gwathmey, that philosophers have an especial competence or an especial role in enabling man to understand the significance of space exploration. This has been done, so far as it has been done, very successfully by imaginative writers. And they show us how to extend and elaborate and qualify our present understanding. We move toward understanding space from understanding other things. And these men have been very successful in showing us how we might do this. It is my impression, however, that philosophers might be of help in having us *establish* the significance of space travel It isn't as though that significance is *there,* to be discovered. That significance has to be established. And I think philosophers might be of help in enabling us to see how fully significant space travel might be. For it to be significant, or fully significant, it has to be connected with a variety of other activities. Philosophers, as "gadflies" might be attentive to these other activities and ask, what bearing does this have on art? What bearing does it have on religion? What bearing does it have on practical affairs? It might even be interesting to ask, what bearing does it have on theological matters? So philosophers might help us here in that they have, or try to have, a wide view of things. As they try to locate, and encourage others to locate, space travel in this wide view, they will perhaps help us to see what significance it can have.

Dr. HACKERMAN. How about making a guess at some of the significance? Philosophers usually take a little longer, I guess, but we have just a short time here. (Laughter)

Dr. SMITH. Let me interject here: Astronomers have a term, the "cosmic year," when we feel things aren't going fast enough. The cosmic year is how long it takes the earth and the sun to make one revolution about the galaxy. It's about two hundred million ordinary years. The saying is that in a cosmic year, perhaps we'll solve these problems. (laughter). I'm sorry, Chet, go ahead.

Dr. LIEB. Well, what problems are we talking about?

Dr. HACKERMAN. Let me interject one. It's practical, it's also philosophical, and certainly critical: Most of the people on the earth who read and speak are now vastly concerned about the pollution about them. Let's take the point of view that this is the first step to getting off the planet. In the past, ancestors have used up the woods, the brooks—whatever they needed—wherever they happened to be, and then moved to some other portion of the continent and then off the continent to another one. That's what exploration has done. And I suggest to you that is what this is—that this is our first step toward getting off the planet.

Dr. LIEB. We may very well have to go off the planet, and sooner perhaps than some of us would like to go at the rate the atmosphere is being polluted. But this, I think then, is one of the *practical* measures of space travel. It is now possible, for the first time—not merely imaginatively, but in fact—for men to leave the earth. Now, if this is possible, we can raise questions about where it would be desirable to go, and who will go, and under what conditions they will go. And it might well be the case that we will have as a body of humans and animals to move, and maybe make another Noah's Ark and go to another world.

Dr. SMITH. But it should be clearly understood that this is a safety valve for a vanishingly small minority of the human race. It may be immensely important in the sense that it takes, in principle, only a couple of people to perpetuate the race. But the wishful thinking one sometimes reads about the entire human race either escaping its overpopulation problems by moving out into the solar system, or escaping the muddying of our own nest that we're doing on earth by moving to other planets—this is purely wishful thinking. The energies to escape from the earth are now fantastic even than one can appreciate, unless, like Dr. Hackerman, you watched one little rocket take off. Now, the places to go in the solar system are so limited that the most we can hope to do, over several thousand years of very advanced technology, is to generate viable colonies of some size. But not even one-millionth of the human race can hope to go and live at such places.

Dr. HACKERMAN. But Professor Smith, we're talking about a cosmic year. (Laughter.)

Dr. SMITH. Yes, now in a cosmic year, this is a very interesting question. I'd like to digress for a moment and tell about three hierarchies of things that astronomers are very seriously discussing. These are what they call "levels of civilization". The "Class I" civilization is one like the Earth, like mankind on the Earth, which has succeeded in making a very habitable place in principle (if we'd only use our brains with the world we have around us). The "Class II" civilization is one that realizes that its central sun is putting out on the order of trillions of times as much energy as is being utilized by that civilization, and if all of this energy could be trapped, that civilization would be able to rise to at least technological, and perhaps other, levels proportionately higher. So Class II civilizations are those that have built "trapping shells" around their suns to utilize all of the unbelievable amount of energy which has come from these objects. Now these are sometimes called Dyson civilizations because one of the world's leading physicists first seriously proposed this, and even indicated ways in which we might look for such civilizations in the universe.

Now a young Russian has gone beyond him and suggested "Class III" civilizations that utilize all the energies of entire galaxies. He even speculated that the quasars might be related to these. Now, this is getting a little bit wild, but in the long, long run, and I wanted to say this because I think it is very important, in the long, long run I think the human race has a marvelous future. Human beings, with all their cussedness, are still some of the nicest things we know, at least when they're children (and some retain it a little bit longer). (Laughter). I think the human race is worth preserving. That's an article of faith. Maybe a philosopher could prove it, I don't know how. But assuming the human race is worth preserving, then we need to preserve not only our nest here but also to plant a few colonies of ourselves around in the solar system so that even if some character a few years from now does press the lethal trigger for the earth, the race has a chance to go on.

Dr. HACKERMAN. Well, we are talking primarily about the scientific and the practical rather than about the theological, but I'm afraid they're verging. (I don't mean I'm afraid, but I *think* they're verging). One thinks of this particular feat that we've been discussing as *the* most dramatic of the century, or certainly of the half-century, but I'm not so certain that the beginning of the unraveling of the genetic code isn't much more important. And they tie together in the sense that by control of the genetic code the population can indeed be moved, in principle, but in part, to some other location. We are oxygen-breathing animals that require certain kinds of ingestations that keep our systems functioning. There is nothing critical about that. One can conceive of other types of metabolism, if you could tinker with the code problem in a sufficient detail.

Dr. SMITH. Indeed some other planets probably have done this. The glimmers of life signs that are appearing on Mars, if they do turn out indeed to be life forms, almost certainly will turn out to be primitive ones that were presumably on the earth three or four billion years ago that were essentially ammonia-methane utilizers and/or producers rather than oxygen-carbon dioxide type life forms. And Jupiter likewise would be a planet of this character of life. So we may find that the solar system is already ahead of us along the lines that have just been suggested, but, whether or not it is, there is no question that in principle genetic engineering can show the way to these things someday. Are we wise enough yet to handle that?

Dr. HACKERMAN. Now we are verging on theology. That's what nature may be doing to us—may be playing games with us.

Dr. LIEB. When you say are we wise enough to handle that, how could anybody answer this question when we don't know? There may be vast adaptations we can make. Certainly here and now on the earth there have to be adaptations to the achievements that have already been made. We can hardly accommodate these achievements. Anyone who watched the televised reports of the landing on the moon will, I think, be appalled by the fact that we did not know how to speak of this. You may have remembered that everybody talked about things being fantastic, unbelievable. We were using the language of superlatives, and the man who uses the language of superlatives is at the end of his resources in language. He doesn't know what to say. So he makes exclamations. Until we can begin to speak comparatively, and say, well this is *like* something else, or this is more or less than something else, we haven't brought in this achievement. We haven't brought it into connection with the things that we do *know* how to talk about and do *know* how to understand. So if we think about our understanding, that has to be spread. It has to be spread *through* our language, and I think it's very plain that even the most professional of commentators were overwhelmed by this occurrence and did not know what to say about it.

Dr. HACKERMAN. I agree, there were a plethora of superlatives all right. But let me tell you some of those superlatives had a purpose: that is, funding for the space program for the seventies. (laughter).

Dr. LIEB. Well, it's all right to have mixed motives, I guess. A number of people have been very struck by the mixture of motives that has gone into the space program—whether it's competitiveness with the Russians, whether it's human exploration, and excellent and admissible because of this fine aspiration, whether it's to support American industry, and what not. I think it may very well come out of a variety of motives. And so far as I can see, there's not a thing wrong with its having a variety of motives impelling it forward. Do you think it will be continued now?

Dr. HACKERMAN. I think so. It will have some difficulties, because it takes a large amount of our treasure and it competes with other vital, important things for that treasure, but I suspect it is now so deeply ingrained that it will. Let's go back to Columbus's time. I suspect the same motives existed in a smaller culture as exist here. The forces, I don't doubt, were just as strong and the tensions were just as great. The time scale was different, of course. But the fact is that, once the discovery was made, even though it became no less dangerous and no less likely of loss (not of people but of treasure—because I suspect that people were less important), the fact is that there was a steady stream which widened and widened until it engulfed this continent. So I really don't see why we would turn our backs on this now that the accomplishment has been made. I'm somewhat biased—I think Harlan is somewhat biased in this regard, both of us being in the natural sciences—but I really, as objectively as possible, can't see any reason for the space exploration stopping.

Dr. LIEB. Well, I'm not opposed to its continuing at all. As a matter of fact, for personal reasons as well as more general ones, I am in favor of its being continued. One of the striking things about it is that it is now a *fact* that men have gone to the moon, and we don't have to sustain this thought any more merely by imagination. Imagination, precious as it is, is fragile. It doesn't fill in the details. But living men have in fact put their feet upon the moon. And now, out of this, a vast number of consequences which we could never have imagined, and possibilities which we could not have defined, are before us. In one or another way, for dozens and dozens of motives, men will have to go further here.

Dr. SMITH. It is sometimes asked if we can afford the space program. I think one might very reasonably ask can we afford *not* to have it in terms of quite a variety of arguments. The very existence of the very large aerospace technology, if that were to be cancelled, would create a depression of major magnitude in large areas of the country. We talk about bringing up the economic levels, and these are certainly extremely necessary in areas that now lack that, but I am not sure that the cure for that is to destroy the thriving technology in areas where it exists. Or alternatively, if that technology were to remain employed, it probably would remain employed in still overproducing yet more missiles to add to the overproduction we now have and would render the world perhaps a trifle more unstable rather than helping, as the space program does, to offer a reasonably peaceful outlet to some of these extremely advanced, and in some ways potentially dangerous, technologies. These are just two of the many arguments that I think can be raised along these lines. The space program looks expensive, and is, to be sure, expensive, because it's a focused effort of the American people into one budget—one rather clearly defined goal. If one tried to count up the amount of money that the American people put into miscellaneous types of disorganized activity, which is also a part of living and fun, but which does not conduce to any great social or scientific or human race type of progress, I think the total bill for that would be of the order of several hundred billion dollars a year. The miscellaneous trips, the extra bottle of beer from the ice box, all the things that one could very readily do without—having them adds a little color and flavor to life—having them to the tune of hundreds of billions of dollars is an invisible use of our time and energy. Focusing approximately two- or three-tenths of one per cent of the total national effort of the country into reaching the solar system, to me, is an eminently worthwhile thing, and—can we afford *not* to do it?

Dr. HACKERMAN. How about the question that has been raised time and time again in the scientific community that there is insufficient science in the space exploration program, that science takes a far back seat, that the scientists of the country have little or nothing to say about the functions of the program, and that if there is any outcome of value to the world it will be scientific and thereby lead to the improvement of the world's population by translation from science to application. Do you have any opinion on whether science indeed is deeply enough involved to make this program worthwhile in their eyes?

Dr. SMITH. That's a good question, and there is a lot of discussion about it. A few scientists say that science is pushed too much into the back seat in the space program. It should be remembered that NASA has worked very hard to interest scientists from all possible relevant areas. In the first few years I must admit that many scientists did not come forward as rapidly as they should, so that in part the lack of top scientific direction, if it exists, is the fault of the scientists themselves. However, almost everyone who is active in science today, and wants to be involved in the space program, has found a welcome in it in some place or other. Our advice is sought—it isn't always listened to. I think, though, that if I were responsible for the safety of the first few sets of astronauts to the moon, I, too, would give primary consideration to the engineering factors and would necessarily put science in the back seat in the beginning. I think that there is no question that in the long run the advances in science will be one of, if not the technical result, from the space program. But in addition to that, there will be economic factors, especially communications, earth resources type studies, which themselves will pay the bill of the space program. But science certainly has a place, a large place, a growing place, and in my estimation it is not too far from where it belongs at this stage of the program.

Dr. HACKERMAN. Dr. Lieb, how do you feel about the question of the use of our treasure in this area when there are, of course, the problems of the cities and the problems of the poor and the problems of the disabled and the unabled? Do you have any particular point of view that might either justify the program or justify its cessation?

Dr. LIEB. Well, I have a point of view, but I don't have the facts which would justify recommendation. Harlan has said extremely well something about the use of our resources in the space program and otherwise. A nation does have limited resources, but a nation also tries to do many sorts of things. We talk as if our resources were strained, and perhaps they are. But on the other hand, this is a luxurious nation that can afford to do things that others cannot do. And furthermore, it can afford to do them—or some of them—on behalf of the others. It seems to me a facetious argument to say offhand we can afford to do this and we can't afford to do that. I think Harlan's point about what is it that we can afford not to do, or that we *can't* afford not to do is an important one, so that there have to be tables of priorities, and the developments of technology, the exploration of space, has *some* place on that table. If we were confronted with national catastrophes which we could not bear, or which we could not bear at the pace at which they are being borne now, then we might have to forego some portion or part of the space program. But then we would have to insert it at some muture time. We might say, well, for five years or ten years, this will proceed at a more modest pace, and then we'll go ahead. But I don't think there is any question that we *have* to be moving here, and, of course, we have to be moving in our cities, too.

Dr. HACKERMAN. It seems to me that there are two points of great consequence in this program. One of them is apparently the deep-felt need by people to look outside their own boundaries. I don't know how you evaluate that quantitatively. But it's always been true. It's true of children. They wander off, you know. They just go out and see what they can find. And it's true of us. The second is, and a very important one, that within this program, as Harlan's already said, it's entirely possible that we will be able to exploit our resources much more effectively than we can do now. Resource exploration via satellite is indeed a finite possibility and a very important one. Along with that is the fact that the investigations which inevitably must go on in the attempt to improve the vehicles, and their propulsion units and communications units—inevitably in there is a place where we will learn more about power and its production. Now aside from all the necessities of life, to improve its quality and so on, there are two things that are vital—one is energy and one is food. And the population on this earth will last only so long as it knows how to produce the energy and produce the food. It will inevitably decline when its needs exceed that which is available. And this program has inherently in it, it seems to me, the seed of that very important far-ranging, far-looking aspect of finding both resource and of producing forms of energy which are of paramount importance to us. I don't see how anybody can look at a program like this and look only at its facade, only at its press relations, only at the flag-waving aspects which are important, perhaps, to the nation, without recognizing that herein lies a real hope for the future.

Dr. SMITH. I'd like to add one more to that list of priorities. Food and energy are the basic constraints, but what we do with them depends on our attitudes, and I think the overall, integrated attitude of the human race, or of the segments that are active, like our country, in setting the pace now, are the third equally important variable. I think until the space program reached its present height, very few people had even reached what astronomers sometimes call the Copernican Revolution—the realization that the earth is a planet with limited, finite resources, and we're stuck with it. We've got to do the best we can here with these resources—that we're passengers on a spaceship in a very real sense. If the space program had done nothing else but to bring this home to most of the people of the country, so that we begin to think constructively about these problems and know them as real problems, then that alone I think has also been worth the bill.

JOE GWATHMEY. And gentlemen, on that point, I'm sorry, but we must conclude. Our guests have been Dr. Harlan Smith, Chairman of the Astronomy Department of The University of Texas at Austin, Dr. Irwin Lieb, Chairman of the Philosophy Department at U.T. Austin, and the President of The University of Texas at Austin, Dr. Norman Hackerman.

KENSINGTON CIVIC ORGANIZATION SUPPORTS MORATORIUM

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. WOLFF. Mr. Speaker, the broadly based public support for the Vietnam peace moratorum held throughout the country last month was a remarkable

demonstration of citizen sentiment on this crucial issue. It is clear that the American people want an end to the war in Vietnam without further loss of life.

I was impressed by the active support given the moratorium by a myraid of citizens groups in my congressional district. One such resolution of support came from the civic organization of the village of Kensington, where I reside. Because this resolution is typical of those adopted throughout the country and because such expressions of public sentiment require a positive response from the Congress, I include my remarks and that resolution in the RECORD at this point:

THE KENSINGTON CIVIC ORGANIZATION,
Great Neck, L.I., N.Y., October 16, 1969.
Hon. LESTER L. WOLFF,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN WOLFF: The following resolution was adopted by the Kensington Civic Organization of the Village of Kensington in the County of Nassau in the State of New York:

"RESOLUTION

"This general membership meeting of the Kensington Civic Organization, held on October 16, 1969, hereby voices its positive appreciation for, and its endorsement of the Vietnam war moratorium held on October 15, 1969."

Very truly yours,
MARTIN L. ELLIS, *President.*

THE SMOG DANGER GROWS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. BROWN of California. Mr. Speaker, smog is no joke.

It was not so long ago that Los Angeles' air pollution problems made that city the laughingstock for a myriad of punsters and comedians.

Now, there is not a major city in America not plagued with dirty, unhealthy air.

The magnitude of the smog problem was recently put together in a series of articles by Scripps-Howard Staff Writer William Steif. Steif's stories are not very funny; indeed, they portend tragedy if we just maintain the type controls we have in operation today. I believe these four articles are must reading, and I include them in the RECORD at this point:

[From the Washington Daily News, Sept. 23, 1969]

SMOG THREATENS "IRREVERSIBLE" CATASTROPHE

(By William Steif)

Earlier this summer long fingers of yellow-gray smog reached 110 miles from Los Angeles to Palm Springs. The desert resort, which formerly baked under a brilliant blue sky, no longer could boast it was "a refuge from smog" for tearful Angelenos.

The episode was not unusual. Pollutants are despoiling more and more of America's air. Smog is only one manifestation of a situation alarming many scientists and even politicians. The Administration's recent public prod to manufacturers to produce a low-pollution auto engine is one result of that alarm.

The air is ambient—that is, all-encompassing. It envelops the earth to an altitude of 19 or 20 miles. Four-fifths of it is in the first seven miles above earth.

Until recently man considered the air infinite. But it actually is finite, amounting to between five and six quadrillion tons. That is a lot of air—a quadrillion is one followed by 15 zeroes—and would seem sufficient for all time.

But many scientists worry that we are expelling so many poisons into the air so quickly that we are in danger of changing the air's nature.

A recent government report says:

"New danger signals indicate that the planetary atmospheric system is undergoing changes that may have irreversible catastrophic effects . . .

"The world's population is expected to double by the year 2000, with an associated increase in industrial growth and commercial activities, and a commensurate increase in the potential for pollutants to be emitted into the atmosphere.

"Meteorologists and other scientists in the U.S. and elsewhere have alarming evidence that pollution particles which are conspicuous over urban communities and industrial complexes, are spreading across nations and continents and slowly encircling the world . . .

"It has been suggested by eminent scientists that the net increase of pollutants such as particulate matter and carbon dioxide in the atmosphere since the beginning of the Industrial Revolution has affected the weather. Since 1860, fossil fuel burning has increased the atmospheric content of carbon dioxide about 14 per cent.

DESPOILED ZINC

"Some scientists fear that increases in carbon dioxide will prevent the earth's heat from escaping into space, melt the polar ice caps, raise oceans as much as 400 feet, and drown many cities. Other scientists predict a cooler earth as the sunlight is blocked by increases in particulates. The results could be more rain and hail and even a possible decrease in the food supply . . ."

Almost four-fifths of the air is nitrogen, almost one-fifth oxygen, the rest other gases and water vapor.

About 30 per cent of the oxygen inhaled by a person goes to the brain. Without oxygen, the brain is damaged fatally within six minutes.

Human lungs are highly specialized tissue which evolved over millions of years. They are, in effect, a one-way screen, holding back the blood on one side but permitting the oxygen in the air to make its way to the blood, where millions of red cells transport the oxygen to other body tissues and there exchange the fresh oxygen for carbon dioxide. This waste is conveyed back to the lungs and exhaled.

Scientists warn that it is impossible for the lungs to adjust fast enough to cope with the present rate of increased air pollution.

EARLY POLLUTION

One of the first laws against air pollution was recorded in England about 1300, when King Edward I issued an edict against burning coal. The penalty was death, and at least one man was executed for breaking the law.

But economics soon triumphed over the desire for pure air.

In the 17th Century John Evelyn, an English writer, was so concerned about smoke pollution he compared "dark London" to "Troy sacked by the Greeks." One remedy he proposed was planting sweet-smelling trees. It took the Industrial Revolution and Henry Ford's mass production of the internal combustion auto engine, to take air pollution out of the crank-case category.

Most major air pollution episodes have occurred in this century. Here are some of the best-known:

In December, 1930, in Belgium's heavily industrial Meuse Valley, 62 persons died during a three-day fog, 10 times the normal number.

A month later 592 persons—again, a large jump in the death rate—died in the Manchester area of England.

In 1948, at Donora, Pa., almost half the town's 14,000 inhabitants became ill during a four-day fog, and 22 died.

A great fog which blanketed London in 1952 left 4,000 more dead than would have been expected normally, and in 1956 some 1,000 "extra" deaths were blamed on an extended fog.

In New York City, in November, 1953, there were 220 excess deaths during an air pollution episode; early in 1963 such an episode brought 300 to 350 excess deaths; in Thanksgiving week of 1966 extra deaths were figured at 168.

DEATH RATE ZOOMS

Today the death rate from bronchitis and emphysema in the U.S. is nine times as high as it was 20 years ago. At the present rate of increase, 180,000 Americans will die of these lung ailments in 1983.

Emphysema—a progressive breakdown of the lungs' air sacs brought on by chronic infection or irritation which diminishes the lungs' ability to transfer oxygen to the blood and carbon dioxide from it—is not the only disease brought on by dirty air. It has been indicted in lung cancer, bronchial asthma, and other respiratory diseases, and even the common cold. Air pollution also is listed as a probable cause of lead poisoning, with its concomitant effect of mental retardation in children, and more exotic diseases like berylliosis (beryllium poisoning) and fluorosis (fluoride poisoning).

A study on northern Staten Island, N.Y., showed the male death rate from respiratory cancer was 55 per 1,000, compared to 45 only a few miles to the south; the death rate among women from the same disease was twice that of the women a few miles to the south. The reason? The evidence pointed to the smoke blown by the prevailing westerly wind from the Bayonne-Elizabeth industrial complex in New Jersey.

CLEO'S NEEDLE

Air pollutants affect more than our health.

Since coming to America in 1881, Cleopatra's Needle—an ancient Egyptian obelisk—has been more deeply eroded in New York City's air than it was during the 3,000 years it spent in Egypt.

A Public Health Service study showed that air pollution reduces the amount of sunlight reaching earth; Chicago, for example, loses 40 percent of its light overall, New York City 25 per cent.

Steel corrodes 200 to 400 per cent faster in urban, industrial areas than in rural areas. Pollutants abrade, tarnish, soil, erode, crack, weaken and discolor all kinds of materials.

Cattle in West Central Florida have been stunted by the polluted fallout from 15 phosphate plants operating in two counties where 600,000 people live.

The best estimates are that agricultural losses caused by air pollution now exceed $500 million a year.

In California alone, air pollution losses exceed $100 million yearly. The once-thriving spinach industry in the Los Angeles basin has been driven out; citrus has been hit, as has grape production in the state's Central Valley. In New Jersey damage has been reported in every county and has affected 36 commercial crops.

Probably the most dramatic destruction of vegetation by air pollution occurred in 1910–11 at an Anaconda, Mont., copper smelter. Every major tree species in an eight-mile radius was found dead or dying.

Extensive crop damage also has been reported in Colorado, Oregon, Florida, Mon-

tana, Pennsylvania, North Carolina, Tennessee, Idaho, Utah and Washington.

[From the Washington Daily News, Sept. 24, 1969]

AMERICA DESPOILED: AIR POLLUTION ILLS OBVIOUS

(By William Steif)

Dr. John T. Middleton, commissioner of the National Air Pollution Control Administration (NAPCA), compares air pollution episodes to the exposed tips of icebergs.

The toll in terms of increased death rates and widespread illness often is obvious.

"But the rest of the damage air pollution causes to health is more difficult to see altho it is greater in extent," Dr. Middleton says. "It is daily, insidious, usually unnoticed in its early stages, and it affects millions."

What are the leading pollutants and their sources?

NAPCA experts have just compiled their estimates of nationwide emissions of the main pollutants during 1966. There has been no substantive change since then, except probably for the worse.

The experts found the U.S. expelled 188.8 million tons of pollutants into the air in 1966. Of this total, half came from mobile sources, mainly autos. The other half came from stationary sources, such as power plants, steel mills, burning coal, refuse banks, cement plants, oil refineries, etc.

FIVE WORST POLLUTANTS

The five major pollutants are almost wholly the products of combustion. They are:

Carbon monoxide, a tasteless, odorless, colorless, lethal gas which has an affinity for hemoglobin 200 times greater than oxygen does. Some 94 million tons are expelled each year into the air in the U.S., three quarters by motor vehicles.

Particulates, tiny bits of matter which can become deadly irritants in combination with other pollutants. Some 21.5 million tons are thrown into America's air yearly, mostly by smoke stacks.

Sulfur oxides, which in combination with the moist membranes of the lungs (for example) form sulfuric acid, a poison. Some 30.4 million tons are thrown into the air yearly, two thirds from burning coal.

Hydrocarbons, organic compounds which are a vital ingredient in the photochemical process producing smog and its deadly byproducts such as ozone. Some 25.9 million tons are expelled into the air annually, more than half from vehicles.

Nitrogen oxides, another vital smog ingredient. Seventeen million tons go into the air each year, just under half from transportation sources.

SIX YEARS—BILLION TONS

In the six years the U.S. alone can throw more than a billion tons of pollutants into the ambient air, but other advanced cultures are keeping up with us. Thousands of Japanese walk around Tokyo today wearing gauze face masks in the hope of protecting themselves from pollutants (little chance, the experts say). Vehicular and industrial emissions are as bad in European centers as in the U.S.

Los Angeles—"Where the birds cough"—is noted for auto-produced smog.

Not so well known is the effect of air pollution from stationary sources, as described in a new report prepared by the NAPCA. For instance:

In Jackson County, Ala., a coal-fired TVA power plant deposited 43 tons of particulates per square mile monthly at a spot 3.6 miles from the plant last year. The normal fallout figure is five tons per square mile monthly. Measurements at a spot almost 10 miles from the plant showed fallout was 18 tons a month—still 3.5 times the norm.

An aluminum smelter 15 miles from Portland, Ore., emitted 3.5 tons of fluorides daily up to 1946. In the next six years controls cut the emissions to 1.5 tons, and after 1952 to 700 pounds daily. Nearby dairy farmers sued and won on grounds milk production was cut; medical testimony also attributed liver and kidney damage of a farmer and his wife to fluorides.

A beryllium extraction and manufacturing plant six miles from Reading, Pa., has had pollution-control equipment since the 1930's (beryllium is a toxic metal used in oxide form as a copper alloy). But the company has faced 35 lawsuits since 1948, charging it with causing berylliosis (beryllium poisoning). The state health department began a study of the problem at Reading in 1957 and found 48 cases of the disease by 1959, 68 by 1960, 75 by 1963.

LITTLE BOY VICTIM

Among the cases were a three-year-old boy and his 15-year-old sister exposed to their father's contaminated clothes for the two years the father worked in the plant. Twenty-one people who suffered berylliosis had no direct contact with the plant or its employes, but lived 0.6 to 5.3 miles from the plant. By 1960, 31 of the Reading berylliosis victims had died.

Sulfur oxides and particulates are the prime pollutants emitted by stationary sources.

A typical plant, such as one operated by Armco Steel Corp., 25 miles north of Cincinnati, expels 30,000 tons of sulfur dioxide and 25,000 tons of particulates each year. The U.S. Steel Corp. plant at Lorain, Ohio, 20 miles west of Cleveland, throws off 77,000 tons of sulfur dioxide and 44,000 tons of particulates, for example.

But it is unfair to single out the steel industry.

Five miles from Tacoma, Wash., a copper smelter emits 196,000 tons of sulfur dioxide into the air yearly, more than two-thirds of all the sulfur dioxide spewed into the 15,000-square-mile Puget Sound area. A mile from the smelter concentrations of the gas often are greater than one part per million; by contrast, the peak of the Thanksgiving, 1966, disaster in New York City found a sulfur dioxide of only 0.97 parts per million.

The coal-fired power plants of Louisville Gas & Electric Co. emit two-thirds of the sulfur dioxide and two-thirds of the particulates in that area.

Union Carbide's ferroalloy plant five miles from Marietta, Ohio, emits two-thirds of the area's sulfur dioxide, nearly a quarter of its particulates.

LONG GRIM LIST

The list compiled by the federal government is long.

Sulfur dioxide and particulates of solids—silica, lead sulfate, ammonium sulfate, aluminum, iron, copper—have been indicted as health hazards.

Congress more than two years ago asked HEW to report "on the need for the effect of national emission standards for stationary sources."

The report has been completed. It recommends a federal crackdown on the public and private electric utilities which produce nearly half the sulfur dioxide emitted into the air and a sixth of the particulates.

Initial investment for air pollution controls, the report estimates, would be $340 million to $510 million, with annual cost thereafter $120 million to $180 million.

Without controls, the report says, power plants in rural areas "will bring the problems of the urban area with them." Selective controls, and constant review, are asked for other industries, too.

But the federal government fights the battle against air pollution from stationary sources like a fighter with an arm tied behind his back.

After pioneering efforts in Pittsburgh, St. Louis and California, Congress in 1962 held hearings on air pollution and in 1963 passed a weak bill. It strengthened the law in 1965 to provide future national standards for autos, but didn't get around to dealing with stationary sources until 1967. Then it left control of stationary air pollution to the states.

So far, the NAPCA has designated 16 areas of the nation in which air quality controls must be applied. Eventually, an additional 41 regions will be designated. In these regions, states are supposed to set air quality standards to conform with federal criteria. But this is still in the future; no one knows how tough the states will be, or how effective the industry lobbies may be.

Meantime, our air gets dirtier.

[From the Washington Daily News, Oct. 8, 1969]

U.S. CARS SPEW OUT 94M TONS OF POISON A YEAR

(By William Steif)

The evening of Aug. 28 was hot and muggy in Boston this year, but 30,000 people, mostly young, thronged through the Commons, the big center city park, to hear a rock group named the Chambers Brothers.

Many parked their cars underneath the Commons in a three-tier, 1,500-car municipal garage. In all, 1,300 cars were in the garage when the show was over. A large part of the audience descended into the garage and, almost simultaneously, drivers started their motors and headed for the garage's three toll-booth exits.

Within minutes, youngsters started staggering out of the garage on foot, choking and gasping. Others passed out in their cars.

Police carried at least 20 unconscious persons out of the garage, ambulances took 25 persons to hospitals, while oxygen was administered to still others in the Commons. A city official ordered the garage cleared. Everyone soon recovered and went home. And 24 hours later the incident was nearly forgotten.

Yet the near-disaster beneath the Boston Commons is a sign of how badly we have despoiled America. Those who passed out were suffering from carbon monoxide poisoning. They had inhaled part of the 94 million tons of a tasteless, odorless, colorless, lethal gas which U.S. exhaust pipes pour into the atmosphere yearly.

MOTORS EMIT HALF

Half the nation's air pollution comes from stationary sources, such as power plants, steel mills, cement factories, coal cleaning plants and forest fires.

The other half of the 188.8 million tons of pollutants the United States pours into the air yearly comes from transportation sources, mostly 100 million cars and 15 million trucks and buses.

Vehicles produce three quarters of the carbon monoxide the United States emits so casually into the air; they produce more than half the 25.9 million tons of hydrocarbons emitted yearly; they produce just under half the 17 million tons of nitrogen oxides produced each year.

The vehicular emissions, all the result of incomplete combustion, poison the air envelope in which we live. They are concentrated in the great metropolitan areas, where most of the autos are.

Some 25 million tons of carbon monoxide go into the air of the 10 most populous areas annually from vehicles. In Los Angeles, vehicular carbon monoxide represents 98 per cent of all that gas emitted; in Philadelphia vehicles produce 69 per cent of the carbon monoxide. In New York City vehicles emit 5.3 million tons of carbon monoxide annually, in Kansas City, they emit 600,000 tons yearly, and similar amounts in Milwaukee and Denver.

Almost everyone knows enough not to shut the garage doors while his car's motor is running.

The reason is that carbon monoxide, a deadly poison has a vastly greater affinity for the blood's hemoglobin than oxygen. Inhaled, it is a quick killer.

Air containing 80 parts per million of carbon monoxide, breathed over an eight-hour period, renders about a sixth of the body's hemoglobin—which transports oxygen to the tissues and takes away wastes—temporarily useless. This is equivalent to the loss of a pint of blood.

Peak-hour traffic jams in Los Angeles and Detroit have built carbon monoxide concentrations to as high as 150 and 120 parts per million. Some measurements have been even higher, up to 400 parts per million.

An official of the National Air Pollution Control Administration says:

"A friend of mine, 62 years old, was caught in the Holland Tunnel, under the Hudson River, for three hours one day. When he got to his home in New Jersey he told his wife he felt terrible. That night he died of a heart attack.

"You can't prove any connection, but . . ."

LOS ANGELES ACTS

Hydrocarbons are organic compounds that seem fairly harmless in themselves. So are nitrogen oxides (altho nitrogen dioxide concentrations have caused severe lung diseases).

But put hydrocarbons and nitrogen oxides together, bake them in the sun, and a photochemical reaction takes place which produces smog and a whole new family of pollutants called oxidants.

Los Angeles County, plagued by smog since World War II, pioneered its control. In the early 1950s it got tough with its citizens, forcing the shutdown of 1.5 million backyard incinerators. When that didn't work the county got tough with industry, prosecuting oil refineries, steel mills and 40,000 other offenders.

But the smog just got worse.

Finally, the internal combustion engine was pinpointed as the culprit and in 1960 the California legislature passed a law requiring auto makers to reduce contaminants, starting with 1966 models. In 1965 the U.S. Congress followed suit, providing controls on 1968 models and more stringent ones on 1970 and 1971 models.

Yet today 80 per cent of all of metropolitan Los Angeles' air pollution is produced by autos. The same is true of the District, where the number of cars per square mile is one and a half times as great as in Los Angeles.

How much smog is there in the cities?

The chemical products of smog initially cause upper respiratory irritation when they concentrate at 0.05 parts per million. But state lawmakers are chary of setting "smog alert" levels too low. It doesn't look good to hometown boosters.

So California's "adverse level," by law, is 0.15 parts of oxidant per million. Colorado is stricter; its "adverse level" is 0.10 parts per million.

Under the California standard, Denver in 1965 had only 14 days of bad smog, Cincinnati only five days, Washington only four, and even Los Angeles only 83.

But under the Colorado standard, Denver had 51 days of bad smog in 1965, Cincinnati 36, Washington 40, and Los Angeles 149.

And under the initial-irritation standard, Denver had 226 days of bad smog, Cincinnati 137, Washington 163, Los Angeles 221.

That's one way of measuring smog's effect in the cities.

Another way is to measure total emissions of the smog-producing ingredients. Thus, in 1967, hydrocarbon emissions in Los Angeles amounted to 1.3 million tons and nitrogen oxide emissions 471,000 tons; in Pittsburgh, in the same year, 95,000 tons of hydrocarbons and 267,000 tons of nitrogen oxides were emitted; in Dallas-Fort Worth, 143,000 tons of hydrocarbons, 95,000 tons of nitrogen oxides; in Birmingham, 64,000 tons of hydrocarbons, 25,000 tons of nitrogen oxides.

GIRLS' STOCKINGS BURN

Several years ago a Detroit auto maker sent a car across the country with a new gas turbine engine. At Los Angeles the company's press agents turned out a group of long-stemmed girls wearing mesh stockings to pose with the car.

The girls stood to the rear of the car when the ignition was switched on—and the next thing they knew, their stockings were on fire. The car's exhaust was more than the press agents had bargained for.

None of the girls was burned badly, but the story illustrates the type of problems the nation faces in groping for replacements for the internal combustion engine.

This engine, invented by Nikolaus Otto, a German engineer, more than a century ago, is reliable, compact and cheap. Probably no other mechanism has contributed more to Western civilization. Indeed, its problem is its popularity.

The internal combustion engine burns its fuel within itself. Its carburetor mixes air with gas. The mixture is forced into combustion chambers (cylinders), where sparks explode the mixture, driving pistons. The power produced is transmitted to the wheels.

The trouble with the system, from the standpoint of smog-fighters, is that the fuel is never completely burned. When the engine is operated at maximum efficiency, cruising at high speed, it produces large amounts of nitrogen oxides. When it is decelerating it produces its maximum emissions of hydrocarbons.

Either way, it produces the raw materials of smog.

Since the early part of this century people have been experimenting with external combustion engines. This amounts to lighting a fire under a boiler which makes "steam" (power) that is transmitted to move a piston.

The external combustion engine has the singular advantage over the internal combustion engine of burning its fuel much more completely. It requires lower-grade fuel, doesn't need a transmission (since its power can be transmitted directly to the wheels), and doesn't need as much horsepower as the internal combustion engine (since it doesn't lose as much power).

But there are problems, reminiscent of the Los Angeles girls' mesh stockings.

[From the Washington Daily News, Oct. 9, 1969]

INTERNAL COMBUSTION DIRTIES THE AIR: CARS POWERED BY STEAM AND ELECTRICITY TESTED IN POLLUTION FIGHT

(By William Steif)

William Lear, an energetic retired millionaire, has set up shop at a former Air Force base near Reno, Nev., to build an experimental car driven by a pollution-free steam engine.

Mr. Lear, 66, has a string of industrial successes, climaxed by development of the Lear Jet executive plane. When he sold out in 1968, he retired to Los Angeles, where the smog, which is despoiling so many American cities, bothered him. He also was having transmission problems with his Cadillac and when he found repairs would cost $280, he decided to build a car with an external combustion engine since it would require no transmission. Mr. Lear's engine—powered by a steam turbine—is one of several being developed as a possible pollution-free replacement for the internal combusion engine.

General Motors has worked on such a project with an Oakland, Calif., firm. The National Air Pollution Control Administration has a Waltham, Mass. firm doing similar work for it. The California Highway Patrol is starting to test an Oldsmobile with a steam engine, and Dallas and San Francisco are scheduled to test steam buses under a Department of Transportation (DOT) contract.

SOME DRAWBACKS

But the external combustion engine has drawbacks, too.

For instance, an auto's internal combustion engine runs continually when the driver is on the road, even if the car is stopped for a red light. The way to stop the external combustion engine is to turn off the power; that also turns off radio, air-conditioner and, if it's night, the lights. So an auxiliary power source has to be designed and put in the car.

More expensive metals and higher-precision tooling are needed. Some think the external combustion engine is overweight and accelerates too slowly.

Nevertheless, the National Air Pollution Control Administration is spending $1 million this year in research and development on steam engines, while DOT is spending $1.2 million on electric engine research.

The big problem with an electric engine, beyond development of a practical battery, is that if the nation's autos went electric, demand for power to charge the batteries would skyrocket. That, in turn, would mean building many more coal and oil-fired utility plants, which are among our worst industrial polluters.

Both General Motors and Ford have experimented with, and are continuing to work with electric engines, the only assured way of getting zero emissions of pollutants from an auto. General Dynamics, Gulton Industries, and Allis-Chalmers have worked on the problems involved, too, and Westinghouse Electric has even produced, commercially, a scaled-up golf cart using lead-acid batteries for suburban shopping retirement villages and other restricted uses.

But a federal report says, "there has not yet been developed a battery power source which could economically provide an auto with both the power needed to achieve reasonable speeds . . . and the energy needed to give the auto a reasonable range of operation between recharging."

Many believe the best bet still may be to reform the internal combustion engine. One way to do this is by direct injection of the fuel into each cylinder, metering the gas and cutting emissions. Four foreign car makers, Volkswagen, Mercedes-Benz, Porsche and Alfa-Romeo, already have begun to build their engines this way, and there are hints that American manufacturers are considering fuel injection.

TWO METHODS

So far, American auto makers have used two methods to reduce emissions:

By injecting air into the still-hot mixture going out the exhaust system, which creates more thorough combustion. This method requires an air pump, and is being used only in Cadillacs and manual-shift cars because it is more expensive.

By regulating the carburetor jet or nozzle that mixes gas with air more precisely, so that less fuel goes into the mixture. This is used in about 80 per cent of new American cars.

Although the auto makers talk about how expensive emission controls are, federal experts say the average cost per car is only $15 to $20.

The Justice Department and General Motors, Ford, Chrysler and American Motors agreed last month to settle an antitrust suit, filed 10 days before President Nixon took office, accusing the auto makers of conspiring to retard development and use of devices to control air pollution in cars.

Under the consent agreement, the auto makers—without admitting guilt—said they would not obstruct development of anti-smog devices and would make available,

without fees, licenses on anti-pollution inventions to any firms desiring them.

The Justice Department said the consent decree would stimulate immediate attacks, through competition, on air pollution.

But the Los Angeles County supervisors have asked Federal Judge Jesse W. Curtis to reject the consent decree. They want a full trial, arming potential litigants with data to sue the companies for damages. At least 24 congressmen feel the same way and have urged court delay on the consent decree. Rep. Bob Eckhardt (D-Texas), talks of a congressional inquiry into the settlement. And last month two Chicago aldermen filed a $3 billion suit against GM, Ford and Chrysler on the same conspiracy charge.

RACE WITH TIME

Federal standards for pollution emissions, to reach maximum stringency in 1971 models apply only to hydrocarbons and carbon monoxide. No nitrogen oxide standards have ever been set, nor are there standards for emissions of lead.

Pre-1968 model cars now on the road emit 1,575 pounds of carbon monoxide from the exhaust. They also emit 215 pounds of hydrocarbons from the exhaust, 105 pounds from a tube running out of the crankcase, and 85 pounds by evaporation.

By 1980, federal experts say, the federal standards will reduce carbon monoxide levels in urban areas 45 per cent and cut hydrocarbon levels 33 per cent.

But, because more complete combustion produces more nitrogen oxide, the nitrogen oxide emission levels will be 70 per cent higher by 1980. Emissions of lead will be 100 per cent higher by then, because of an increased auto population—combustion doesn't destroy lead.

After 1980 emissions in all categories will rise because of the rising population and increasing number of autos.

"That gives us just about 10 years," one expert says.

SHARING THE BLAME

The outraged citizen tends to blame Detroit's auto makers for air pollution. But there are less obvious and equally large targets for indignation.

The oil industry (with a single exception) continues to put lead in gas to remove knocks and increase octane rating, altho this can also be done at the cost of a cent or two a gallon by more precise refining. As a result, autos dump 200,000 tons of fine lead particles into the air yearly, and the auto makers are prevented from using a muffler which would be very effective in producing almost-total combustion in lead-free fuel.

Nobel prize-winning geneticist Joshua Lederberg recently noted healthy people now have 100 to 300 parts per billion of lead in their blood, a "two- to five-fold increase" over the unpolluted environment. Clear-cut symptoms of lead poisoning appear at 800 to 1,000 parts of lead per billion, Mr. Lederberg said, adding that he felt the safety margin was getting slim.

Altho kerosene-burning jet planes account for only 2.1 per cent of the nation's carbon monoxide emissions and only 1.2 per cent of hydrocarbon emissions, they are big polluters in airfields' immediate areas. Federal experts say it would cost all U.S. airlines $12 million to put an improved kind of combuster on their planes the next time the engines must be overhauled. The airlines so far have rebuffed federal efforts to get them to cooperate.

Yet Dr. Lee A. Dubridge, the President's science adviser, concluded in a 55-page "backgrounder" prepared for the White House last month:

"Autos are the prime source of air pollution in the U.S. . . . and pose a hazard to health . . . (but) at present there is a lack of incentive, both in and out of the auto industry, for adequate further development of unconventional vehicles.

CRIME AND THE BLACK MAN

HON. WILLIAM B. WIDNALL

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. WIDNALL. Mr. Speaker, Sterling Tucker, vice chairman of the District of Columbia City Council, recently addressed himself to the question of crime in this city, and the black leadership's response to it.

As a black leader, as a minister, and as a local government official, Mr. Tucker's words should carry special weight; they are worth serious consideration.

A summary of his speech, and a Washington Star editorial commenting on it, follow, so that my colleagues might share Mr. Tucker's perspective:

CRIME AND THE BLACK MAN

Crime in our country, crime in our city, increasing at a bewildering rate, casts a shadow over our lives. There is no one sitting here today who is untouched by it. You may not have been robbed yourself, held up in a dark alley, or your purse snatched as you walked down the street; you may not yourself have felt a gun in your back or found your home broken into, belongings stolen you'd saved to buy . . . but you are nonetheless a victim. A victim of the fear that is perhaps the highest cost of crime. The fear that catches you when you simply hear footsteps behind you on a dark street. Or when you see someone waiting up there ahead in an alley. Or when you keep wondering if you double-locked your door. Many are the irreparable injuries of crime, to the victim and to the offender himself. But one of the very worst is what it is doing to the way we live with each other.

And certainly we experience it to the full here in Washington, D.C. Our city ranks among the highest in crime in the nation. Not only is it higher than most cities but it is growing faster: our rate of crime increase is triple the national average. Statistics for D.C., for the first six months of this year showed robberies up 46%, rape up 50%, over last year.

We know the majority of the perpetrators come from the social levels of the poor and the disadvantaged. The rich white boys in the suburbs are stealing cars too, more and more in fact. But for an overall daily record of larceny, burglary and assault, they don't match our brothers in the ghetto.

Similarly, we know who the victims generally are. They are not the voices who cry the loudest in this country for law and order; they are not the ones buying the police dogs and the burglar alarms for their suburban fortresses. No, the victims are, far and away, the poor and the black. Statistics (from the President's Commission on Law Enforcement, 1967) reveal the shocking fact that if your income is under $3,000 your chances of being robbed are five times higher than if your income is over $10,000; your chances of being raped four times as high; of suffering burglary, almost double. So if you're poor *and* black in this beautiful land of ours, you begin to know what crime really means.

We also know what is at the root cause of the crime. The President's Commission's report included what was to me a very poignant statistic. A survey was conducted to determine how American citizens rated the seriousness of national problems. All income levels, both black and white, rated race relations at the top of the list, and all rated crime as the number two problem; except for one category, the category that was the poor black, they put as the number two problem, *above* crime, the problem of education. So those, by far the most victimized, knew what the seed cause is.

We know and we agree that in the last analysis at the root of the crime are the desperate conditions of the ghetto: the inadequate, overcrowded, ill-equipped schools; the unbearable, dilapidated overcrowded housing; the unemployment; the broken families; all the vicious forces that push the poor urban black outside of society. And it is no wonder then, say the sociologists and the reformers, no wonder then that he *acts* as if he were outside that society—acts out that alienation in crime.

But while I am disturbed about the rampant wave of crime, and while I am deeply disturbed about the conditions that perpetuated the ghetto and foster crime, there is something else here that also disturbs me.

What disturbs me is the failure of black leadership to speak out against crime itself. I do not hear their voices raised against the robbery and burglary and rape that is perpetrated on our people, against the gun-toting that turns our streets into alleys of fear. *The statistics rise, but they maintain an aloof silence. And it disturbs me because their silence most damages the black community itself.*

Now it is easy to understand *why* there has been this silence. We black leaders have been directing our attention to society's crimes against our people, and quite rightly so—to the tragic injustices of our system, to the attitudes and vicious practices of a racist white majority that have kept our people so long in poverty and despair. When it comes to crime, we have focused on police tactics: we have told the story of police brutality and bigotry and documented it, of how the ghetto-dweller feels the need not for protection *by* the police, but *from* the police. We have brought this out into the open and forced changes and the first steps toward community control.

This is good. What is *not* so good is that in fighting these practices our attention has been diverted from crime itself. Now my point is that the time has come when black leaders must speak out against crime as well as against the police. We must lay equal stress on the crimes of the people against society as on the crimes of society against the people. My point is that *not* to do so distorts the picture and lays an intolerable burden on the black man himself.

For this silence encourages certain assumptions that are degrading and dangerous. It tends to encourage the assumption, for example, that crime is only a function of poverty and injustice. It tends to justify the crime rate in terms of the cost of living. Bleeding hearts, both black and white, say in so many words, "You steal because you're poor. You're not responsible for your poverty, therefore you are not really responsible for your crime." Now this attitude is highly injurious, not only to society, but most particularly to the recipient of all this commiseration and sympathy, the black man himself. It is degrading, it is harmful, and it is false.

It is false because those who steal are not those who are trying to make ends meet. Those who steal are not those who are trying to meet the monthly rent bill and the gas bill and all the other bills, and trying to feed their children and clothe them. Those who are doing that, those who really *are* fighting the cost of living, are not the ones who steal. Take the working mother who is up before dawn to get out to the suburbs to do another woman's housework, and returns

after a hard day's work to cook for her own children and then stay up late into the night doing her own housework and washing and ironing their clothes. If you want to know about poverty, about the grueling daily effort to make ends meet, ask *her*—not the hold-up artist.

And it is degrading to her, to her efforts and to her courage and dignity, to condone the assumption that poverty justifies crime. As statistics show, she more likely than not is the victim.

Therefore, we must not let the injustices of society, as cruel as they are, muffle our alarm over crime. We must speak out. The burden of being black in this society is bad enough. The burden of being poor is bad enough. What we certainly do *not* need is the additional burden of being told, "You steal because you're poor." What we do *not* need is to condone and tacitly support the assumption that we are not morally responsible. We do not need this erosion of our dignity. We must not let society hang *this* on us as well.

Over a year ago, it appeared we were on our way to a new kind of people involvement in the war on crime in this city. This was to take place through the pilot project in the old 13th precinct, with the people taking the lead.

What, then, was a promising new prospect of a people-police partnership has turned into a nasty, highly explosive people-police confrontation.

One of the issues here is Dr. Robert Shellow, the Director of the project who has been highly controversial from the beginning and whose credits (with a large part of the black leadership of the area) were long ago exhausted.

A second tension point developed when this precinct was merged into the new Third Police District, thus nullifying much of the planning already underway and raising fresh suspicion as to the sincerity of the District Government in this experiment in crime fighting.

The "people" role here seems to have been diluted and the Government seems determined that its point of view shall prevail.

What was originally proposed for this project is too important for it to become lost and washed out in this controversy. We need the people's voice, their leadership and their support if crime is to be stamped out.

We particularly need the Black leadership, those who can move with ease and effectiveness in the ghettos, interpreting the program, pointing out the problems, developing activities of community education, and forging a new relationship between police and the people.

It seems to me, at this point, that this can only be achieved by replacing Dr. Shellow and by bringing *intact* into the Third District the pilot precinct leadership structure which had already been put together before the merger of the precincts.

I think the Government would serve itself and the people well by following this course of action.

This may be the door through which Black and white leadership might walk together in effecting a solid and well-coordinated partnership with the police in a winning battle against crime—a common enemy.

[From the Washington Evening Star, Oct. 28, 1969]

APPEAL TO BLACK LEADERS

Sterling Tucker, vice chairman of the City Council, was right the other day in criticizing "the failure of black leadership to speak out" against the criminal element in this city.

Tucker was right for one reason because of the fact, well known but not often mentioned, that the great majority of the victims of crime in this city are black. And as the volume of crime increases, which it will, more and more members of the black community will suffer the consequences.

It is hard to understand why black leaders have not been more active and vocal in the effort to cut down on crime, especially since the principal offenders are youthful blacks. Several starts have been made, but nothing much ever came of them. Perhaps this is due to a reluctance to be identified with the police, with the "power structure," or with the theme of "law and order"—associated in some minds with racism.

Whatever the reason or reasons, effective action by the black leadership is overdue. Crime in Washington is indeed reaching what the President has called "crisis proportions." It is estimated that by the end of this year there will have been 15,000 robberies and 20,000 burglaries in this city. The appalling rate of crime increase is shown by the fact that the number of robberies here in July, and again in August, was greater than the yearly totals for 1960, 1961, 1962 and 1963.

It would be quite wrong to think that the black leadership alone holds the key to the solution of this problem. Nor can the police, even when at full strength, do the job alone. Both can help, especially if they will work together. But the best hope, perhaps the only real hope, lies with Congress. If the legislators will stop sucking their thumbs and pass the package of anti-crime bills which has been put before them, then this community may be on the way to seeing some daylight ahead.

APOLLO 11 ASTRONAUTS OFFER THEIR THANKS

HON. JAMES G. FULTON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. FULTON of Pennsylvania. Mr. Speaker, our U.S. Apollo 11 astronauts, in their world travels from country to country on behalf of the U.S. space program, are living up to the high standards that we Americans and the world are proud they possess in full measure.

In a heartwarming gesture Neil Armstrong, Michael Collins, and Edwin Aldrin have sent cards of appreciation to those of us who have supported the Apollo moon landing program, and to the many people who have participated in these programs.

As I believe the U.S. Congress and the American people generally should know of this fine response by our U.S. Apollo 11 astronauts, as well as officials, scientists, workers, and taxpayers, I am including this pleasant greeting and appreciation in the CONGRESSIONAL RECORD:

We are grateful and proud to have participated in the achievement of our national goal of a successful lunar landing . . . and return. We believe that as the exploration of our universe expands, so will the benefits of all mankind. We hope that the people of earth are now entering a new era of peace and common understanding.

To those of you who have offered encouragement and good wishes, whose dedicated support has made our programs possible, and whose prayers have sustained us, we extend our humble thanks.

NEIL A. ARMSTRONG,
Commander.
MICHAEL COLLINS,
Command Module Pilot.
EDWIN E. ALDRIN, JR.,
Lunar Module Pilot.

RACIAL QUOTA PLANNED FOR JOBS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. RARICK. Mr. Speaker, the action of the Supreme Court last week, blandly ignoring the law enacted by the Congress and authorizing Federal judges to enforce as law the totally illegal decrees of HEW means more than the end of public education in the South.

For a number of weeks, the left wing has been carefully laying the groundwork for the Supreme Court to destroy craft labor unions. The sleeper is the so-called Philadelphia plan.

The Civil Rights Act of 1964, rotten as it is, spells out plainly the prohibition against racial assignment of pupils to schools to overcome what is called racial imbalance. The Department of Health, Education, and Welfare ignored that provision of law, and the Supreme Court did likewise.

The same law also prohibits racial employment quotas of the type undertaken in Philadelphia. Agencies of the Federal Government, however, believing themselves to be above the law, have blandly ignored this law.

I include as part of my remarks section 703(j) of Public Law 88–352, the Civil Rights Act of 1964, together with recent newspaper clippings indicating its patent and flagrant violation.

The material follows:

[P.L. 88–352, 78 Stat. 257]

SEC. 703. (j) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

[From the Sunday Star, Oct. 26, 1969]

HEARING SET TOMORROW ON PHILADELPHIA PLAN

Labor Secretary George P. Shultz and U.S. Comptroller General Elmer B. Staats are to testify this week at hearings before a Senate subcommittee on the Labor Department's plans to increase job opportunities for minority groups on federal construction projects.

The hearings start tomorrow before the Separation of Powers subcommittee. They will deal with the so-called "Philadelphia plan," under which federal contractors must agree to meet goals of minority group employment when they offer bids.

Staats ruled in August the plan was a racial quota system conflicting with the 1964 Civil Rights Act, but the Labor Department,

backed by a Justice Department opinion, maintains the plan is legal.

Sen. Sam J. Ervin Jr., D-N.C., the subcommittee chairman, said the hearings will look into whether the Labor Department, in pursuing its plan to increase minority job opportunities, has "usurped congressional authority and violated legislative intent."

"To me, the plan is a classic breach of separation of powers. It openly disregards the intent of Title VII of the 1964 Civil Rights Act and twists the purpose of an executive order," Ervin said.

The Philadelphia plan, so-called because so far it applies only to that city, is an attempt to improve what Shultz has called a deplorably low rate of minority employment among higher-paid construction trades there.

Witnesses at the hearings are to include Jerris Leonard, assistant attorney general in charge of the Justice Department's Civil Rights Division; Sens. Jacob K. Javits; R-N.Y., and Paul J. Fannin, R-Ariz., and spokesmen for labor and the construction industry.

[From the Evening Star, Oct. 27, 1969]

JAVITS SEES NO VIOLATION IN "PHILADELPHIA PLAN"

(By Dana Bullen)

Sen. Jacob K. Javits, R-N.Y., today told a Senate subcommittee the controversial "Philadelphia plan" to promote minority hiring on federal construction projects does not violate a ban against racial quotas.

Speaking for himself and eight other senators Javits defended the Labor Department move as necessary to spur hiring of minorities.

Sen. Sam J. Ervin Jr., D-N.C., however, contended that plan requires racial quotas and charged it would be "a travesty" for the Labor Department to claim minority hiring percentages are not based on race.

ERVIN HITS PLAN

The plan—based on an executive order promulgated in 1965 by the Johnson administration and implemented several months ago by the Labor Department—requires federal contractors to agree to meet goals for minority group employment when they offer bids for projects.

Ervin, whose separation of powers subcommittee today opened hearings on the plan, said he felt it imposed an improper racial "quota" whether this is "disguised" as a "target," a "goal," a "range," or a "standard."

Although other Nixon administration officials disagree, Comptroller General Elmer B. Staats asserts the plan constitutes a racial quota system conflicting with provisions in the 1964 Civil Rights Act.

So far, the plan applies only to projects involving six Philadelphia construction trades, although the Labor Department expects to extend it to projects in other cities.

According to Ervin, the Labor Department's approach would require minority employment of between 19 and 26 percent by the affected trades by 1973. These figures start lower, however, with a range of 4 to 9 percent until Dec. 31, 1970.

GOOD FAITH

Javits contended the plan sets standards for judging minority hiring complaints but does not require a contractor to do more than take "good faith affirmative action" in this area.

He said this removes "a great deal of the uncertainty and confusion which have so far plagued minority-hiring efforts in federal programs. "In the past, many contractors have voiced legitimate complaints that they simply did not know what was expected of them," Javits said.

Other senators he listed as joining in his statement were Birch Bayh, D-Ind.; Edward W. Brooke, R-Mass.; Clifford P. Case, R-N.J.; Charles E. Goodell, R-N.Y.; Robert P. Griffin, R-Mich.; Fred R. Harris, D-Okla.; Philip A. Hart, D-Mich., and Edward M. Kennedy, D-Mass.

[From the Washington Post, Oct. 28, 1969]

ERVIN ASSAILS PLAN ON MINORITY HIRING

(By William Chapman)

The Labor Department's controversial Philadelphia Plan to increase the hiring of minorities on federal contract jobs was denounced yesterday as a case of discrimination in reverse.

Sen. Sam J. Ervin (D-N.C.) opened two days of subcommittee hearings on the plan by insisting it forces contractors to "discriminate against workers who are not members of any minority group."

Ervin's view was disputed by nine liberal senators, led by Sen. Jacob J. Javits (R-N.Y.), who contended the plan is both legal and fair.

The plan is a device by which the Labor Department hopes to increase the number of Negroes and other minority-group members working on jobs under federal contracts.

In applying it to Philadelphia, the Labor Department established "goals", or specific percentages, to be used in determining whether an employer was making an effort to increase the hiring of Negroes.

Ervin contended yesterday that that is the same as fixing a quota of blacks to be hired. That, he said, violated even the 1964 Civil Rights Act, which forbids discrimination in hiring under federal contract awards.

Javits, however, argued that the Labor Department's "goals" are merely criteria by which the employer's efforts can be graded.

The employer's contract is not cancelled nor is his company blacklisted if the goals are not met, Javits said.

Ervin was backed up by one Northern congressman, Rep. Roman Pucinski (D-Ill.), who complained, "The heavy hand of the federal government setting up quotas is not the answer."

Pucinski observed that 10 years ago the Labor Department was bent on removing racial designations and secret quota systems from its own hiring practices. "Now they are bringing them back in," he said.

Contractors cannot meet the percentage goals, he added, without specifically recruiting Negroes, a practice he said would violate the 1964 Civil Rights Act.

While Philadelphia contractors have bitterly resisted the plan, a spokesman for the Associated General Contractors of America took a wait-and-see attitude in testifying before Ervin's Judiciary subcommittee.

William E. Naumann, a Tucson builder and member of the general contractors' legislative committee, said his organization wants to see how the plan is applied in other instances before taking a position.

[From the Washington Post, Oct. 29, 1969]

AFL-CIO JOINS FOES OF PLAN ON MINORITY HIRING

(By Spencer Rich)

The AFL-CIO lined up yesterday with Sens. John L. McClellan (D-Ark.) and Sam J. Ervin Jr. (D-N.C.) and U.S. Comptroller General Elmer B. Staats in opposition to the Labor Department's minority hiring plan for Philadelphia construction workers.

But the plan was defended by Labor Secretary George P. Shultz and Assistant Attorney General Jerris Leonard as necessary to combat what Leonard called "blatant discrimination" against Negroes by construction unions in the Philadelphia area.

Leonard told a hearing of Ervin's Senate Judiciary subcommittee on separation of powers that of six unions in the Philadelphia area whose workers would be subject to the plan, four had 1 per cent or less minority members as of June, 1969, one had less than 1.5 per cent and one had just under 2 per cent.

The plan has already been put into effect in Philadelphia and is expected to be extended to at least nine other cities by the Labor Department. It requires firms bidding on federally financed construction contracts of $500,000 or more to agree in advance on an "affirmative" program for hiring minority members.

For ironworkers, for example, where Negro employees now number less than 2 per cent in the Philadelphia area, the contractor must agree to try to raise his portion of Negro ironworkers to between 5 and 9 per cent by the end of 1970, 11 and 15 per cent the next year, 16 and 20 per cent the next year, and 22 to 26 per cent by the end of 1973. Similar goals are set for five other trades.

McClelland and Ervin hammered away at Leonard and Shultz in an attempt to get them to concede that the plan imposes racial hiring quotas on construction firms working under government contracts and therefore violates Title VII of the 1964 Civil Rights Act, which forbids such quotas.

Staats, in his role as congressional budget watchdog, has already issued a ruling to this effect and repeated yesterday that his office will refuse to certify for payment any contracts in which a low bidder fails to get the job because he refuses to agree to the hiring plan or in which government costs are raised as a result of inclusion of the plan.

But Leonard and Shultz refused to concede any violation of Title VII. They insisted that the minority hiring figures were merely "goals," not quotas forbidden by the 1964 law, and that a contractor who failed to meet them would suffer no penalty if he could show he had made good faith attempts to hire minority group members.

"That is a subterfuge," shouted McClellan. "It's a quota."

The AFL-CIO spokesman, Louis Sherman of the building and construction trades department, said the AFL-CIO adopted a resolution at its convention last month opposing the Philadelphia plan as a quota system. He said the unions were doing all they could to get more Negroes into the building trades, but the Philadelphia plan was not the right way to do it.

SALUTE TO INTERSTATE HIGHWAY SYSTEM

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. SCHWENGEL. Mr. Speaker, one of the greatest public works projects ever undertaken is our Interstate System. This system is now nearing completion and the full benefits of this great system are now being fully realized for the first time by the many motorists of our country. The system was expensive to be sure, but just in terms of the lives it is already saving, it is well worth the expense. The Muscatine Journal recently took note of the importance of the Interstate System:

INTERSTATE DIVIDENDS

A motorist from the Muscatine area can now go up to Interstate 80 and drive to Boston, Mass., or Chamerlain, S.D., or the western part of Nebraska, without seeing a red light.

Progress on the Interstate highway system (including the toll roads which are a part of the system in some areas) permits a vacationer to drive nonstop—except for toll booths and gasoline refills—between Boston and Chamerlain, S.D., in about 30 hours. That is 1,800 miles.

Almost 66 per cent of the planned 42,500-mile super-road network has now been completed.

Largest public works program in history, the interstate system will link virtually every locality of 50,000 or more people with high-speed, limited-access roads that will carry 20 per cent of the nation's traffic.

Besides speeding travelers on their way, the system saves lives. Highway officials estimate that interstate travel is 25 per cent faster and two and one-half times safer than the old primary roads.

More than 2,000 miles of the system have been opened to traffic in just the past year.

According to the Department of Transportation's Bureau of Public Roads, 27,975 miles of interstate highways have been completed since the program began: 5,050 miles (12 per cent) are now under construction and 9,474 miles (22 per cent are in preliminary stages.

The final cost is expected to exceed $60 billion—an average of more than $1,400,000 a mile. The federal government pays 90 per cent of the expenses through the Highway Trust Fund (gasoline taxes). The states pay the rest.

In terms of driving safety and convenience, the interstate highways are already paying tremendous dividends to the motoring public.

THE NEXT 10 YEARS IN SPACE

HON. GEORGE P. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. MILLER of California. Mr. Speaker, thoughtful Americans have been asking each other and their Representatives in Congress what are we getting for all the dollars we have invested in space exploration. This is a question that has been asked ever since the National Aeronautics and Space Administration opened its doors for business in 1959.

The outstanding successes of the space program have culminated in the successful return of Apollo 11 astronauts to the surface of the earth from the epochal journey to the surface of the moon. Those successes include weather satellites, communications satellites, applications technology satellites, and navigation satellites, which are at this very moment producing a steady flow of benefits for the American people and the people of the world. The past 10 years have been a prolog to the enormous advancements we anticipate in the next 10 years.

In a speech before the Engineering Society of Detroit, Mr. Robert Anderson, executive vice president of North American Rockwell Corp., outlined in exciting fashion what the future holds for this Nation in the next 10 years in space. I urge every Member to read and reflect upon the ideas expressed by Mr. Anderson, a man who is a leader in an organization that has made realistic commitments of its resources to the achievement of success over those years. The speech follows:

THE NEXT 10 YEARS IN SPACE

(Remarks by Robert Anderson, executive vice president, North American Rockwell Corp., before the Engineering Society of Detroit, Sept. 26, 1969)

Ladies and Gentlemen: Just ten days ago the Space Task Group submitted to President Nixon its recommendations for future space activities.

PRESSURE OF PRIORITY

The document details for the President's consideration the different paths he may elect to follow in implementing a national space program.

"Our opportunities are great," the committee said, "and we have a broad spectrum of choices available to us."

The Task Force report comes at an opportune time, for many questions are being raised about our space activities.

Specifically what should be our next goal? What should be the sequence of events for the next ten years, or for the remainder of the century?

If we elect manned missions to Mars, when should we embark?

Or should we ground the space ships, put them in moth balls and let a future generation take up the challenge?

Behind a great deal of the uncertainty, of course, is the pressure on the budget and the scale of national priorities. The pride of accomplishment in what we have done with Apollo 11 is being weighed against the needs of man on earth.

I'm as aware as any man of the need for solutions to growing ecological and social problems here on earth.

We must tackle those problems and solve them. But we also need to exploit our achievements in space.

I am convinced we can do both. In fact, my main point here today is that the two are directly related.

This nation needs a balanced space program, a well planned series of steps that will carry us into the next century. I will outline some of the steps that should be taken during the coming decade.

I contend that those steps, in the long-term, will make this earth a better place in which to live. In that sense, space activities are not competing with programs of ecological improvement or social betterment. They are actually complementing them.

TERRIFYING ENVIRONMENT

Our earth environment is terrifying in many ways, with its air and water pollution, its congested cities, with its population explosion and the threat of world hunger. The ironical part is that many of today's problems are caused by yesterday's technical solutions. Triumphs in health and sanitation have brought overpopulation. Triumphs in communication have brought an almost unmanageable mass of information.

That does not lessen the urgency of the situation. Every projection we encounter is pessimistic about the future if we don't find a way to clean the water we drink and the air we breathe. Every new baby born into this world is a reminder that we must find a way to convert useless land into fields of growing crops, or recover more food from the sea.

As scientists and engineers, many of us confess our inadequacies. We see over and over again that knowledge of our planet as an environmental system has been woefully inadequate. We have sometimes upset the balance of nature by forgetting the side effects of our advances and problem-solving.

ABSOLUTE NECESSITY

As a result of that inadequacy, gentlemen, it is absolutely necessary for us to continue space exploration. Only there can we fully observe the interaction of man, nature and technology.

We are in considerable trouble today. That trouble could be compounded as our technological society advances toward the year 2000 if we do not make use of the extraordinary new tools that are now within our grasp.

Space gives us an effective platform overseeing the earth. We will be able to see problems clearly; we will be able to measure the severity of those problems; and we will be better able to control them. Pollution, food supply, and cloud cover data will come under global surveillance. We will be able to manage our environment in the supercrowded eras to come.

On the earth, with our space-sponsored advances, we will be making effective contributions in urban affairs; while education, law enforcement, and city planning will be direct beneficiaries of those advances.

The sweeping scope of space technology will be felt more and more in the vast programs being planned to change the course of rivers and the flow of electricity over thousands of miles. It will reach into the purification of our waters and the desalting of the sea. It will have a bearing on the revitalization of our earth transportation system, and it will have a great influence in the field of medicine.

TECHNOLOGICAL ADVANCES

The amazing technological advances witnessed in this country since the end of World War II came about in large measure because of the tremendous impetus of both military and space research and development activities.

Where would television be today without the impetus of that research? What would be the state-of-the-art of today's commercial jet aircraft if that flood of research and development had been shut off? What would be the status of nuclear energy or microelectronics?

Dr. George Mueller of the National Aeronautics and Space Administration puts the case for space research and development in these unequivocal words: "Our space program is forcing technological innovation which leads to new processes, new products, new companies, and, in fact, whole new industries. This space program is the focal point of our industrial growth."

The advances are the seeds of increasing productivity and the foundation for new products and services. They have been the catalyst needed to keep our economy growing and to keep the products of our industries a step ahead of the rest of the world.

They have enabled our economy to grow to the point where we can seriously contemplate eliminating poverty, transforming our cities into habitable areas again, and planning massive changes to improve our education and transportation systems.

CONTINUED RESEARCH AND DEVELOPMENT

Those vast infusions of research and development can continue with a well-planned space program.

We will, I am sure, continue to have a strong program. The alternative would be like building a huge factory, turning out one automobile, then shaking hands all around and going home while the factory gathers dust.

It will be a different kind of program, however, because there's going to be a big switch in space.

Up to this time it's been a research and development effort. We've stood, figuratively, with a wet forefinger in the air, testing the unknown wind of space.

There was a time only a few years ago when we thought that prolonged weightlessness might cause a man's bones to disintegrate. We weren't entirely sure how dif-

ferent metals would stand up under the alternate extremes of heat and cold in space or withstand constant exposure to radiation.

Now we know the answers.

We're out of the pure research, development and test stage—that is, the steps leading up to the first moon landing.

We're ready for operational activities.

We're going into long-term moderate cost operational space programs that will have as their central theme the maximum benefit for man on earth.

The key to economy will be re-usable space shuttles, spacecraft that journey out to orbit then return intact on their own power and land just like an airplane.

We're rapidly coming *to the end of the period* when we toss a hundred-million dollars worth of hardware into the sky, then let it drop back into the Atlantic Ocean after its one-time-only task as a booster is finished.

It's costing this country one thousand dollars a pound to put a payload into earth orbit and return it to earth. The industry's goal is to bring that price tag down to fifty dollars a pound—which is just about equivalent to the cost incurred with our most advanced research aircraft.

That's earth orbit. We've got similar savings planned for lunar activity. It's been costing this Nation $100,000 to move a pound of material from the earth's surface to the moon's surface and return. The goal of the National Aeronautics and Space Administration is to drop the cost to $200 a pound. And that means a lunar transportation system.

MEANING FOR EARTH DWELLERS

Understandably, people are demanding, "What does it *mean to us here on earth?*"

Ladies and gentlemen, it is almost certain that the missions planned for this coming decade and beyond will improve the living habits of every man, woman, and child on earth.

Consider the returns from just two unmanned satellites alone. Various groups have estimated that in the United States about $2 billion could be *saved annually by farmers, fuel producers,* and public utilities if effective weather forecasts could be made just two weeks in advance. This capability will be provided by the advanced weather satellites that soon will be ready.

But that $2 billion figure pales before another projection.

Earth Resources Technology Satellites will become operational within a few years.

Congressman Joe Karth of Minnesota, second ranking majority member of the House Science and Astronautics Committee, is an authority on that particular project.

He estimates that the economic benefits from this one satellite alone—in weather forecasting and increased food production, and in uncovering new resources of the ocean and new mineral and water resources—could add more than $6 billion a year to the economy of America alone.

Here's another unmanned satellite example:

The new communications satellites that will soon be on station in space will represent an incredible advance in the state of the art. With them, truly "Every call will be a local call."

Those satellites will enable even the most primitive of emerging nations to leapfrog a century of development efforts such as we have seen in this country—from the first Western Union telegraph pole to today's automatic nationwide dial system. The new nations will literally "space talk" themselves right into the 21st century.

We are convinced that we *can and must use men* and machines in space to cope with the problems and fulfill the expectations of the 1980s.

We know where we are going in space for the next three years, for the hardware has already been allotted.

NEXT IN LINE

We must now complete the next four landings to give us the basic scientific data on the characteristics of the moon. These data are the key to establishing the origin and evolution of that body.

The famed chemist, Professor Harold Urey of the University of California at San Diego, has pointed out that the surface of the moon is timeless and unchanging. In contrast, the air and water that sustain life on our planet have ground away most of our geological history.

These next four Apollo missions should answer question after question about the moon's evolution, and many of these answers may apply to the Earth. The latter Apollo missions should also uncover a great many more questions.

But we are ready for this with more advanced lunar exploration missions. They will be programmed to answer the unanswered questions.

They will lay the foundations of knowledge if we are to make commitments in the late 1970s for permanent lunar bases.

The use of our lunar landing space craft and launch vehicles as an earth orbiting space station is an indication of the versatility of the coming generations of space hardware. We will convert the *third stage of the launch* vehicle into an orbital workshop for launch in 1972.

This program looks toward a permanent space station for Earth resources observation and on-the-spot weather interpretation.

Looking further ahead, we at North American Rockwell are deeply involved in the studies and industrial competitions that will rival or excel in importance the Apollo effort.

In the 1960s our space program was determined by one single goal—land a man on the moon and return him safely to earth. Space technology today has matured to the point where no single spectacular goal will serve as did the Apollo program.

Space programs will have multiple goals, and they will be driven by requirements for low operational costs and direct tie-in to what we do on Earth.

ADVANCED SPACE STATION

The advanced space station is one of these systems. North American Rockwell and the General Electric Company, as a team, are designing such a system for National Aeronautics and Space Administration.

We are in a competition to design a national laboratory in space, a laboratory to operate continuously for ten years. It will be manned by engineers, scientists, and astronomers, all spending several months in orbit just as they now spend time as visiting researchers, at laboratories or on research ships sailing the Earth's oceans.

The station will be an effective operational system because we can change missions and operations at minimum cost. It will be economical in operation which will mean that private industry, universities, and other nations of the world can "rent" time in space for their own needs and purposes.

There will be entirely new areas of research open to these scientists-in-space as they explore the results of weightlessness on materials and processes. We will enter a new era in manufacturing technology, for engineers in orbit will be able to perform industrial processes with materials and chemicals that today are impossible or not even dreamed of.

Within the past fifty years the advances that have been made in materials development have resulted in new industries, new products, and to a large extent the burgeoning economy we know today.

That same surge of materials development, with a resulting benefit to man on Earth, is waiting in the new era of orbiting space stations.

KEY TO ECONOMY

The key to economical, low cost operation of our space station and of all the space missions to come *will be the space shuttle* program, a technical advancement over Apollo far greater than that of Apollo over Sputnik.

This is the system to transport men, material and satellites into Earth orbit and bring them back at less than $50 a pound.

We are investigating a system where the launch vehicles and the spacecraft are as one; where we *can reuse our boosters* 100 times or more.

They must be operational spacecraft in the same sense as *the jet airliner*. Instead of the current two months of checkout and countdown, we must operate with the post flight inspection, refueling and takeoff procedures of jet airliners coupled with progressive maintenance and overhaul programs—a true "spacelines" operation.

The technical challenges run the whole spectrum *from basic materials* through space traffic control. But we can do it, and this system is the key to the "harvest of space."

What I've just related is a balanced, national space program, one that is a logical sequence to these years of preparation.

We don't have to talk in terms of the future alone when we consider the benefits to man from the space program. Earlier I mentioned the big switch in space from research and development activities to operational flights. There's a switch down here on Earth, too. I'm talking about the transfer of aerospace technology to everyday human needs.

National Aeronautics and Space Administration officials have identified over 3,000 technological innovations useful in civilian life that have been directly attributable to the space program. New biomedical equipment, new food treatments, new flame proof materials, new energy sources are just a few. Important developments from the space effort are being studied by commercial firms that will affect the lives of all of us.

Gentlemen, the world changed permanently the moment Neil Armstrong stepped on the surface of the moon.

Dr. Glenn T. Seaborg, Chairman of the U.S. Atomic Energy Commission has said, "We are experiencing the birth shock of being born into a new world. There is no turning back."

We have no thought of turning back. Our eyes are on the charting of the course that lies ahead. Determining that course in space for the United States will not be an easy decision. It will be a far more difficult and complex task than setting the Apollo goal in 1961.

Nevertheless, a great deal of the future growth and health of this nation depends on our choice. Space technology is opening a new world, not a hundred miles above us, but here on Earth. Operations in space have a vital role to play in making this a better, a more livable world.

For that reason, I am sure the national decision will be to accept the challenge.

We will take the next giant step for mankind.

Thank you.

MISAPPROPRIATION OF FUNDS ENDORSED BY BURGER COURT, MITCHELL AND NIXON

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. RARICK. Mr. Speaker, HEW appropriations authorized by Congress to allow the spending of taxpayers' moneys by HEW expressly prohibits, in sections 409 and 410, the use of any part of the

funds for designated acts to overcome racial imbalance.

The recent Supreme Court decision orders enforced as if law specific guidelines prepared by salaried HEW employees, advisers and consultants, educators, and counselors. In the Mississippi case the guidelines number some 30 volumes. All of this preparation required vast expenditures of money. Whose money?

If one penny of taxpayers' funds was used in this social injustice bonanza against the express provision of the act of Congress appropriating money to HEW, the spending constituted the crime of misappropriation of taxpayers' funds. In such case, it would appear that every involved HEW employee, consultant, and other recipients of the misappropriated funds were guilty of a crime and certainly are open to civil suits by taxpayers who are interested in restoring the misused funds to the Treasury, as well as criminal action by various grand juries in the Southern States, where crimes took place.

Now we certainly understand why Mr. Finch is pleading so desperately with Members of the other body to try to remove the Whitten amendment from the 1969–70 HEW appropriations bill so that he is not again forced to steal the taxpayers' money to continue his guideline racket.

Can anyone imagine what would happen to an ordinary citizen if he or she stole taxpayers' money, or even if they were the recipient of misappropriated Federal funds.

Or can anyone imagine what would happen at the Pentagon if some general used military funds to pay for a project which was expressly forbidden by Congress?

When these civil suits or criminal indictments are filled, who will hear the cases?

All of the judges who are involved in the elevation to a phony "law of the land" of the illegal guidelines, manufactured with misappropriated funds, must certainly be held to be accessories after the fact. Their ignorance of the law is apparent, but no excuse. They are, therefore, subject to being excused or denied the honor of sitting in judgment in cases in which they have an interest entirely contrary to the American people.

Another interesting innovation in the Supreme Court's per curiam was that despite jurisdiction in civil rights cases being conferred by Congress on U.S. district courts, the Supreme Court apparently does not trust its control over all district judges and has decided to amend the judicial code as well as the Civil Rights Act of 1964, so in paragraph 4 of its decision, it decreed that the courts of appeal retain jurisdiction and enforce their own illegal orders.

Recent actions of the Supreme Court of the United States leave much to be desired.

The present Justices seem to be laying the groundwork for an ugly and destructive confrontation with the U.S. Congress and the American people.

So that our colleagues will know the absolute absurdity of the HEW guidelines which the Supreme Court would dignify by treating as the "law of the land," I submit guidelines typical of the 30—except for breakdown of school assignments—section 409 of the current HEW appropriations and the Supreme Court per curiam follow my remarks:

Sec. 409 of the Appropriations Act under which the H.E.W. employees are paid reads as follows:

"No part of the funds contained in this Act may be used to force busing of students, abolishment of any school, or to force any student attending any elementary or secondary school to attend a particular school against the choice of his or her parents or parent in order to overcome racial imbalance."

SUPREME COURT OF THE UNITED STATES

NO. 632.—OCTOBER TERM, 1969

Beatrice Alexander et al., petitioners against Holmes County Board of Education et al. On Writ of of Certiorari to the United States Court of Appeals for the Fifth Circuit.

[October 29, 1969.]

PER CURIAM.

These cases come to the Court on a petition for certiorari to the Court of Appeals for the Fifth Circuit. The petition was granted on October 9, 1969, and the case set down for early argument. The question presented is one of paramount importance, involving as it does the denial of fundamental rights to many thousands of school children who are presently attending Mississippi schools under segregated conditions contrary to the applicable decisions of this Court. Against this background the Court of Appeals should have denied all motions for additional time because continued operation of segregated schools under a standard of allowing "all deliberate speed" for desegregation is no longer constitutionally permissible. Under explicit holdings of this Court the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools. *Griffin* v. *School Board*, 377 U.S. 218, 234 (1964); *Green* v. *County School Board of New Kent County*, 391 U.S. 430, 438, 439, 442 (1968). Accordingly. *It is hereby adjudged, ordered, and decreed:*

1. The Court of Appeals' order of August 28, 1969, is vacated, and the cases are remanded to that court to issue its decree and order, effective immediately, declaring that each of the school districts here involved may no longer operate a dual school system based on race or color, and directing that they begin immediately to operate as unitary school systems within which no person is to be effectively excluded from any school because of race or color.

2. The Court of Appeals may in its discretion direct the schools here involved to accept all or any part of the August 11, 1969, recommendations of the Department of Health, Education, and Welfare, with any modifications which that court deems proper insofar as those recommendations insure a totally unitary school system for all eligible pupils without regard to race or color.

The Court of Appeals may make its determination and enter its order without further arguments or submissions.

3. While each of these school systems is being operated as a unitary system under the order of the Court of Appeals, the District Court may hear and consider objections thereto or proposed amendments thereof provided, however, that the Court of Appeals' order shall be complied with in all respects while the District Court considers such objections or amendments, if any are made. No amendment shall become effective before being passed upon by the Court of Appeals.

4. The Court of Appeals shall retain jurisdiction to insure prompt and faithful compliance with its order, and may modify or amend the same as may be deemed necessary or desirable for the operation of a unitary school system.

5. The order of the Court of Appeals dated August 28, 1969, having been vacated and the case remanded for proceedings in conformity with this order, the judgment shall issue forthwith and the Court of Appeals is requested to give priority to the execution of this judgment as far as possible and necessary.

A DESEGREGATION PLAN FOR THE WILKINSON COUNTY SCHOOL SYSTEM

(A report to the superintendent by the Division of Equal Education Opportunities, U.S. Office of Education, Atlanta, Ga.)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Atlanta, Ga.

Mr. BERNARD WAITES,
Superintendent,
Wilkinson County School District,
Woodville, Miss.

DEAR MR. WAITES: In accordance with the July 5, 1969 order of the United States District Court for the Southern District of Mississippi, the following desegregation plan for ending the dual school system in the Wilkinson County School District is submitted for your consideration.

We wish to express our appreciation for the cooperation received from you and your staff.

Sincerely yours,

JESSE J. JORDAN,
Senior Program Officer, Equal Educational Opportunities.

III. DESEGREGATION OF FACULTY AND OTHER STAFF

The School Board shall announce and implement the following policies:

1. The principals, teachers, teacher-aides and other staff who work directly with children at a school shall be so assigned for the school year 1969–70 and subsequent years that in no case will the racial composition of a staff indicate that a school is intended for Negro students or white students. For the 1969–70 school year the district shall assign the staff described above so that the ratio of Negro to white teachers in each school, and the ratio of other staff in each, are substantially the same as each such ratio is to the teachers and other staff, respectively, in the entire school system.

The school district shall, to the extent necessary to carry out this desegregation plan, direct members of its staff as a condition of continued employment to accept new assignments.

2. Staff members who work directly with children, and professional staff who work on the administrative level will be hired, assigned, promoted, paid, demoted, dismissed, and otherwise treated without regard to race, color, or national origin, except to the extent necessary to correct discrimination.

3. If there is to be a reduction in the number of principals, teachers, teacher-aides, or other professional staff employed by the school district which will result in a dismissal or demotion of any such staff members, the staff member to be dismissed or demoted must be selected on the basis of objective and reasonable non-discriminatory standards from among all the staff of the school district. In addition if there is any such dismissal or demotion, no staff vacancy may be filled through recruitment of a person of a race, color, or national origin different from that of the individual dismissed or demoted, until each displaced staff member who is qualified has had an opportunity to fill the vacancy and has failed to accept an offer to do so.

Prior to such a reduction, the school board will develop or require the development of non-racial objective criteria to be used in selecting the staff member who is to be dismissed or demoted. These criteria shall

be available for public inspection and shall be retained by the school district. The school district also shall record and preserve the evaluation of staff members under the criteria. Such evaluation shall be made available upon request to the dismissed or demoted employee.

"Demotion" as used above includes any reassignment (1) under which the staff member receives less pay or has less responsibility than under the assignment he held previously, (2) which requires a lesser degree of skill than did the assignment he held previously, (3) under which the staff member is asked to teach a subject or grade other than one for which he is certified or for which he has had substantial experience within a reasonably current period. In general and depending upon the subject matter involved, five years is such a reasonable period.

IV. TRANSPORTATION

The transportation system shall be completely re-examined regularly by the superintendent, his staff, and the school board. Bus routes and the assignment of students to buses will be designed to insure the transportation of all eligible pupils on a nonsegregated and otherwise non-discriminatory basis.

V. SCHOOL CONSTRUCTION AND SITE SELECTION

The size and location of new school buildings and additions to existing building can significantly affect desegregation now and in the future.

All school construction, school consolidation, and site selection (including the location of any temporary classrooms) in this system shall be done in a manner which will prevent the recurrence of the dual school structure once this desegregation plan is implemented.

VI. MAJORITY TO MINORITY TRANSFER POLICY

Whenever there shall exist schools containing a majority of Negro students, this school district shall permit a student (Negro or white) attending a school in which his race is in the majority to choose to attend another school where space is available, and where his race is in a minority.

VII. ATTENDANCE OUTSIDE SYSTEM OF RESIDENCE

If the School District grants transfers to students living in the district for their attendance at public schools outside the district, or if it permits transfers into the district of students who live outside the district, it shall do so on a non-discriminatory basis, except that it shall not consent to transfers where the cumulative effect will reduce desegregation in either district or reinforce the dual school system.

VIII. SUGGESTIONS FOR PLAN IMPLEMENTATION

Successful implementation of desegregation plans largely depends upon local leadership and good faith in complying with mandates of the Courts and the laws upon which the Courts act. The following suggestions are offered to assist local officials in planning for implementation of desegregation orders.

Community

1. The Superintendent and Board of Education should frankly and fully inform all citizens of the community about the legal requirements for school desegregation and their plans for complying with these legal requirements.

2. The Board of Education should issue a public statement clearly setting forth its intention to abide by the law and comply with orders of the Court in an effective and educationally responsible manner.

3. School officials should seek and encourage support and understanding of the press and community organizations representing both races.

4. The Board of Education, or some other appropriate governmental unit, should establish a bi-racial advisory committee to advise the Board of Education and its staff throughout the implementation of the desegregation plan. Such committee should seek to open up community understanding and communication, to assist the Board in interpreting legal and educational requirements to the public.

5. The Superintendent should actively seek greater involvement of parents of both races through school meetings, newsletters, an active and biracial P.T.A., class meeting, parent conferences, and through home visits by school personnel.

6. The Superintendent and Board of Education should regularly report to the community on progress in implementing the desegregation plan.

School personnel

1. The Superintendent should provide all personnel copies of the desegregation plan and arrange for meetings where the personnel will have an opportunity to hear it explained.

2. The Board of Education should issue a policy statement setting forth in clear terms the procedures it will follow in reassignment of the personnel (see section on Desegregation of Staff).

3. Assignments of staff for the school year should be made as quickly as possible with appropriate followup by school principals to assure both welcome and support for personnel new to each school. Invitations to visit school before the new school year begins should be offered.

4. The Superintendent should see that a special orientation program is planned and carried out for both the professional and non-professional staffs (including bus drivers, cafeteria workers, secretaries and custodians) preparatory to the new school year. He should make every effort to familiarize new and reassigned staff with facilities, services, and building policies, and prepare them to carry out their important role in a constructive manner. The Superintendent should direct each principal to see that each teacher new to a school is assigned for help and guidance to a teacher previously assigned to that school. Each such pair of teachers should have an opportunity to meet before the school year actually begins.

5. The Superintendent should arrange an in-service training program during the school year to assist personnel in resolving difficulties and improving instruction throughout the implementation period. Help in doing this is available from the South Mississippi In-Service Consulting Center at Hattiesburg, Mississippi.

6. It is important that, through personal observations, students see that nonprofessional service positions in their schools are not for members of one race and that harmonious working relationships can exist between members of both races. The Superintendent and Board of Education should therefore take all necessary steps to assure that all staffs are bi-racial.

Instructional program

1. Each principal should be required to appoint biracial faculty committees to study and, as necessary, revise each area of the curriculum to assure better learning opportunities for all students. This should become a continuous activity in each school and throughout the district.

2. Student evaluation policies and procedures should be reviewed continuously for areas in need of improvement and adjustment to encourage the educational growth and motivation of students.

3. Remedial programs in reading and mathematics skills, as appropriate, should be introduced and/or expanded for *all* students in need of special help. Such a program should supplement regular course offerings and assignments of students.

4. Grouping procedures should be reviewed and revised as necessary to assure they support the spirit as well as letter of desegregation plan the district has accepted responsibility for implementing in good faith.

5. Participation in extracurricular activities by students of both races should be actively encouraged by administrators and teachers as a means for developing school spirit and a feeling of belonging.

6. School organizations—student government, cheerleaders, musical organizations, athletic teams must be operated on a nondiscriminatory basis and should include students of both races.

7. Guidance counselors should be oriented and urged to plan a leading role in successful implementation of the desegregation plan.

8. The curriculum should be reviewed and, as necessary, revised to provide recognition of Negro history, culture and contributions to our society. Library books which deal with such subjects should be added to school book collections.

9. Vocational education offerings should be reviewed and improved as a means of providing students of both races with education relevant to vocational interests and as a means of reducing dropouts.

10. Headstart or similar preschool programs for children of both races should be implemented.

11. Use of Federal and State education funds should be planned comprehensively for maximum educational benefit to all eligible children.

Students

1. The Superintendent should direct each principal to hold special orientation programs welcoming students who will be new to a school, before the regular school year begins.

2. The Superintendent should require each principal to see that students are frankly and fully informed about the desegregation plan and their responsibilities to help carry it out. Each principal should seek to establish rapport and communication links with new students to encourage mutual understanding and confidence.

3. The Superintendent should direct each principal to establish a student-faculty human relations committee representing both races to aid in the successful implementation of desegregation.

4. All school staff and members of the student body should exert extra effort to assure the full participation of all students of both races in extra-curricular programs, including when appropriate the provision of a "late bus" for those staying after school to participate in such programs.

5. Each principal should request teachers to make themselves available to students outside of regular class for counseling and extra instructional help.

IX. RESOURCES FOR ASSISTANCE

In addition to the regular resources for assistance available to school officials, districts developing or carrying out plans of desegregation in Mississippi may call upon the following agencies for help:

South Mississippi In-Service Consulting Center, University of Southern Mississippi, Southern Station, Hattiesburg, Mississippi 39401, Phone: (601) 266-7150.

Division of Equal Educational Opportunities, U.S. Office of Education, 50 Seventh Street, N.E., Room 404, Atlanta, Georgia 30323, Phone: (404) 526-3076.

BATTLE OF PHILOSOPHY

HON. GLENN R. DAVIS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 3, 1969

Mr. DAVIS of Wisconsin. Mr. Speaker, it appears to me that well-organized

pressure groups have united to exert unseeming pressure to prevent the confirmation of President Nixon's nominee as Associate Justice of the U.S. Supreme Court, Judge Clement Haynsworth.

Their real objection, the Judge's constitutionalist philosophy, has been masked behind the recitation of other thin objections. Mr. Haynsworth's philosophy is the real issue, and I hope the Members of the other body will come to see the matter in that light. Neither political opportunities nor faulty vision should stand in the way.

I wish to insert herewith, by unanimous consent, a timely and perceptive editorial which recently appeared in the Milwaukee Sentinel:

BATTLE OF PHILOSOPHY

As the Clement F. Haynsworth, jr., debate grinds on, it is becoming increasingly obvious that organized labor is the main force behind the opposition to his confirmation as a supreme court associate justice.

There has been considerable said about pressure exerted by President Nixon in behalf of the Haynsworth nomination. But there has been too little said about the pressure that unions evidently are exerting on various senators to vote against Haynsworth. The political arm twisting by the unions might make the White House efforts seem relatively gentle.

Just why the unions are so dead set against Haynsworth is not clear. His judicial record is not that antilabor. He has sat on eight labor cases that were reversed by the supreme court but none of the reversals suggested that the decisions overturned were "antilabor." Haynsworth has written eight prolabor opinions and joined in 37 other prolabor rulings.

Having failed to find any damaging conflict of interest evidence and apparently unable to smear him as antilabor, the opposition to Haynsworth has swung back to an original complaint, that he is a southerner, ipso facto, a segregationist. But his record in civil rights cases shows him to be a moderate.

One is left with the feeling that the opposition to Haynsworth is motivated by a desire to try to preserve the philosophical status quo of the court. One senator, in fact, candidly says he will vote against him simply because he disagrees with his socio-economic philosophy.

President Nixon, in defending his nomination, effectively answered this attitude by saying that "if Judge Haynsworth's philosophy leans to the conservative side, in my view that recommends him to me.

"I think the court needs balance, and I think that the court needs a man who is conservative—and I use the term not in terms of economics, but conservative, as I said of Judge Burger, in respect to his attitude toward the Constitution.

"It is the judge's responsibility, and the supreme court's responsibility, to interpret the Constitution and interpret the law, and not to go beyond that in putting his own socio-economic philosophy into decisions in a way that goes beyond the law, beyond the Constitution."

This, we believe, is the fundamental issue involved in the Haynsworth nomination, and the basic reason for the opposition to him is that the liberals are fighting a desperate rear guard action to keep the supreme court's philosophical scales weighted on the side of social activism—in spite of the fact that the people in the last presidential election in effect voted to redress the supreme court's balance.

SENATE—*Tuesday, November 4, 1969*

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

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

Eternal Father, maker and preserver of all things visible and invisible, we worship Thee in Thine infinite majesty and thank Thee for Thy wondrous gifts to us and to all mankind. We thank Thee for life and reason, for the gifts of nature and of grace, for truth revealed in Thy word and made known through men, for the precious gift of freedom, and the hope of a more perfect world. Make us good men in a good government. Give us the peace of forgiveness and reconciliation that we may find our way to peace among the nations.

Now unto the King eternal, immortal, invisible, the only wise God, be honor and glory forever and ever. Amen.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of February 7, 1969, Mr. McCLELLAN, from the Committee on Appropriations, reported favorably, with amendments, on November 3, 1969, the bill (H.R. 12964) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1970, and for other purposes, and submitted a report (No. 91–502) thereon, which bill was placed on the calendar and the report was printed.

INDIAN EDUCATION: A NATIONAL TRAGEDY—A NATIONAL CHALLENGE

Under authority of the order of the Senate of November 3, 1969, Mr. KENNEDY, from the Committee on Labor and Public Welfare, on November 3, 1969, submitted a report entitled "Indian Education: A National Tragedy—A National Challenge" (S. Rept. No. 91–501), which report was printed together with supplemental views.

NOTICE OF MOTION TO SUSPEND THE RULE—AMENDMENT TO STATE, JUSTICE, COMMERCE, AND THE JUDICIARY APPROPRIATION BILL, 1970—RECEIVED DURING ADJOURNMENT

AMENDMENT NO. 262

Mr. PASTORE submitted the following notice in writing:

In accordance with rule XI of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 12964) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1970, and for other purposes, the following amendment, namely:

"Page 48, at the end of line 17 and before the period, insert the following: ': *Provided,* That all funds herein appropriated to the business loan and investment fund and all moneys hereinbefore or hereinafter appropriated to such fund, together with all moneys otherwise available to such fund, shall be available to meet guarantees bearing the full faith and credit of the United States of America heretofore or hereafter made by the Small Business Administration pursuant to section 303(b) of the Small Business Investment Act of 1958, as amended.' "

Mr. PASTORE also submitted an amendment, intended to be proposed by him, to House bill 12964, making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1970, and for other purposes, which was ordered to lie on the table and to be printed.

(For text of amendment referred to, see the foregoing notice.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, November 3, 1969, be dispensed with.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

PRESIDENT NIXON'S VIETNAM ADDRESS

Mr. MANSFIELD. Mr. President, the President spoke sincerely for peace. He emphasized, once again, that he wants to get the United States out of Vietnam. What is still not clear is the how or when. There were no specifics. The President undoubtedly had his reasons for not making this clarification. Nevertheless, until it is made, I am afraid the issue of Vietnam will remain as divisive as ever in the life of the Nation.

The difficulty in waiting for the "other side" and for Saigon to make up their minds that there has been enough bloodshed and destruction is that we are also